ALFONSO AND CORAMINDA LUMIBAO, COMPLAINANTS, VS. JUDGE MAMERTO C. PANAL MCTC, MALUNGON-ALABEL, SARANGGANI, RESPONDENT.

A.M. No. MTJ-99-1237. November 25, 1999

Ponente: BUENA, J.

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BUENA, J.:

This administrative matter is an offshoot of a barrage of letter-complaints signed by herein petitioner spouses Alfonso and Coraminda Lumibao, imputing to respondent Judge Mamerto Panal of the MCTC, Malungon-Alabel , Saranggani, a plethora of charges involving among others, "grave misconduct"[1], "delay in the remittance of P5,000.00 cash bail bond to the Supreme Court", "cultivation of land covered by TCT No. T-908", "electioneering"[2] and "hurling of invectives"[3]

Alfonso and Coraminda Lumibao are member and President, respectively, of the NGO-Alabel Reform Movement Inc. (ARMI), a non-governmental organization while respondent Mamerto Panal is the presiding judge of the Municipal Circuit Trial Court (MCTC) of Malungon-Alabel, Saranggani.

Based on the memorandum dated 11 August 1999[4] of Court Administrator Alfredo L. Benipayo, the instant administrative matter arose from several letter-complaints filed by petitioner spouses which are summarized hereunder, together with the corresponding Comments thereto by herein respondent judge, thus:

"Letter dated April 6, 1994.
Complainants' Allegations.

Coraminda Lumibao requested for the transfer of Judge Panal from the Alabel Circuit of the 4[th] MCTC, Malungon-Alabel, Saranggani because: a) Judge Panal is `the brother-in-law of the then incumbent mayor of the Municipality of Alabel'; and b) Judge Panal `exhibited grave misconduct in the community as contained in x x x (her) complaint to the chairman of the District Election Committee, SOCOTECO II Cooperative.'

Respondent Judge's Comment.

In his Comment dated June 2, 1994, Judge Panal stated that: 1) he married the mayor's youngest sister on June 28, 1986 `long before Mayor Hernando L. Sibugan got elected as mayor of Alabel'; and 2) the accusation of `grave misconduct in the community' is `BELIED by no less than the Chairman, the Secretary and Member of the District Election Committee x x x as shown in their Joint Affidavit' x x x ... and `the decision rendered by the District Election Committee DISMISSING the complaint filed by Coraminda Pabillo-Lumibao for `no sufficient grounds for the guilty/violations (sic) of the respondents.'

Letters of May 31, June 14 and July 8, 1994.
Complainant's Allegations.

In said May 31, 1994 letter, they stated that: [a] Judge Panal was intimidating complainants who requested for his

transfer out of Alabel as stated in a letter sent to President Fidel V. Ramos on April 12, 1994; [b] a convicted murderer Rolando Lalisan, a relative of Judge Panal is out of jail and harassing the people; [c] `a rapist Julian Villacrucis who is the driver of the Judge relative (sic) is out harassing people', [d] Judge Panal went to around 10 precincts in Alabel Poblacion in the Barangay Election day on May 9, 1994 `showing his weight around as their Dynasty supported some candidates'.

In said June 14, 1994 letter, they stated that:

> `Judge Panal commented that my accusation against his brother-in-law Mayor Hernando Sibugan and other local officials are baseless. A judge should not be commenting this way before an investigation have (sic) even just began. He is suppose (sic) to be symbol of justice in this part of the country and as such suppose (sic) to be impartial on issues. In commenting little the lawyer of the accused (sic), this Judge have (sic) totally lost his credence as a Judge, and does not possess even an iota of delicadeza which is very dangerous in dispensing justice, especially when it concerns his relatives. And therefore deserve (sic) an immediate transfer if just to make him realize that a Judge is a very respectable position and never to be used for somebody's personal interest, not even the Mayor nor his relatives.'
>
> `Judge Panal claimed that the people trekked to his office to manifest their denial to have signed any petition for his transfer. The people went to see him because they were summoned with threat of imprisonment if they will not see the Judge. In fact it is (sic) Mayor Hernando Sibugan who sent the invitation and Judge Panal interrogates (sic) the people and have them signed that the NGO-ARMI (Alabel Reform Movement, Inc.) misled them. x x x' [Copied verbatim]

In said July 8, 1994 letter, they stated that:

> "2. Judge Panal misled the Supreme Court when he said the people `trekked to the Municipal Hall to see the town executive and to the Court' -- this is a lie -- the truth is the protesters were given `Summons' by his brother-in-law Mayor Sibugan, and the Judge confronted them when he said, `I had confronted only some of them' x x x The irony is that the Mayor and the Judge and other Alabel officials are supposed to be investigated -- instead, they investigated the complainants. x x x Some of those threatened by the Judge to sign are willing to testify that they were given a prepared form against Mrs. Lumibao, `PARA SA KAALAMAN NG LAHAT ' x x x
>
> `3. Judge Panal did not inform the Supreme Court that his relative Rolando Lalisan was convicted for the murder of Pedro Escoltora due to a land problem -- and the poor wife Juanita Escoltora was not informed of the re-opening of the case for the acquittal of Lalisan. According to a witness, Judge Panal had harvested from this contested area which is allegedly titled to Lopez and other farmers who are afraid to visit their land for fear of the Judge and Lalisan x x x' (Emphasis ours).
>
> x x x x x x x x x
>
> `1. The Albarracins complained that Hermalina Albarracin, a rape victim, was asked by Judge Panal not to file a case, but they refused, and now the suspect is at large after jumping bail.'
>
> x x x x x x x x x
>
> `11. Is the complaint of Aldin Tusan true that his 14 years old son was jailed and Judge Panal had been postponing the hearing, while the alleged killer is Nayre who is the son of Mayor's employee who is at large? x x x' (Copied verbatim)
>
> Respondent Judge's Comment.

In his Comment dated August 19, 1994, Judge Panal stated that:

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`In re: Complaint of Aldin Tusan,
Paraiso, Alabel, involving his son--
Elmer, re: Murder of Filomino
Sampaga.

`The records show that a complaint for murder was filed on May 13, 1985 against Teodoro Nayre @ Adola and Elmer Tusan @ Tata for the death of Felomino Sampaga before then Judge Teodorico P. Diaz, docketed as Crim. Case No. 674-A x x x. On May 13, 1985, then Judge Diaz issued an order for the issuance of the warrant of arrest and the warrant of arrest itself against the 2 accused x x x. On February 10, 1993 (after almost 8 years), accused Elmer Tusan @ Tata was arrested so that the corresponding Order of Commitment Pending Trial was issued (now) by me on same date x x x. The following day (February 11), an order was issued by me directing Tusan to submit controverting evidence x x x. On March 22, 1994, PAO lawyer, Atty. Alfredo Barcelona, Jr. filed a Motion to Waive (right of accused Tusan to) Preliminary Investigation (Second Stage) x x x. On March 30, 1993, I issued a resolution ordering the forwarding of records to the Provincial Prosecutor and the commitment of the accused Tusan from municipal jail to the provincial jail x x x. On April 7, 1993, Prosecutor Franklin Gacal (City Prosecutor of General Santos and Saranggani OIC) issued an Order/Resolution finding no basis to disturb my Resolution finding a prima facie case against the two accuseds and directing the filing of the corresponding information x x x

`Further check of the case would show that, based on the Certification issued by the Clerk of Court of the RTC of Alabel x x x, the case (now docketed as Crim. Case No. 9413, RTC) was originally filed on April 14, 1993 with the RTC of General Santos City, Branch 22, and transferred on September 16,1993, to the RTC of Alabel, Branch 38 (upon its creation), presided over by the Honorable Judge Jaime I. Infante. The latest scheduled trial on August 4 1994 was postponed by Judge Infante to September 19 for failure of accused's counsel to appear for trial.'

`In re: Allegation of Coraminda Lumibao
re investigation and threats to incarcerate
people who will refuse to sign petition for
my retention.

`This is a BIG VICIOUS LIE. A MALICIOUS FABRICATION. A SUPRESSION OF TRUTH. What truthfully transpired was that I sought the assistance of the Mayor to get in touch with the people who appeared to have signed the alleged petition seeking for my transfer. It was a first step to giving (sic) them "due process" before I consider taking legal actions against those who appear to be responsible in maligning me, tarnishing my integrity as member of the Bench, and scandalizing my family by reason of the malicious imputations and baseless charges. Those notified thru the letters sent by the Mayor trekked to my office after seeing the Mayor and had explained their side. They admitted to have signed blank sheets of paper upon the behest of Coraminda Lumibao under the pretext of forming a Non-Governmental Organization (NGO) where the members thereof can either avail of cash assistance or loan, assistance in their livelihood projects, water connection or reduction of taxes, etc. But they claimed innocence as they have no knowledge regarding the petition. Contrary to the imputation of threats, these people were even grateful to the Mayor and me for contacting them and giving them the opportunity to air their side. To this effect, their respective declarations (Pahayag/ Deklarasyon, x x x) were taken, subscribed and submitted earlier to the Supreme Court. I even have tape recording of our free-wheeling conversation. They claimed to have been misled by Coraminda Lumibao and her sycophants into signing them under the guise of NGO membership.

`I swear on my oath as a member of the Bench that there was (sic) no threats of whatever nature or kind. It's not my way. Besides, how can this alleged threat be possibly true when the letter itself of the Mayor is devoid of such implication? Lumibao cannot substantiate her charges otherwise she would have presented a copy of the alleged petition for my retention or statements under oath by the person or persons threatened, but...there was none. If there was some form of threats or harassments (sic) on the people, it was the Lumibao couple and

> their minions who did it to prevent the people from coming out of their statements that would adverse (sic) to the Lumbaos (sic). My case is a clear example. This malicious and unfounded charges are, in themselves, pure and clear harassments (sic). Admitting, arguendo, that the couriers of the Mayor's letters may have uttered words convincing them to see the Mayor or me to avoid facing possible prosecution, it cannot be considered in the context of plain threats but a show of concern, being the Mayor and father of the town of Alabel, to spare them from getting involved in the crossfire of cases that I am readying to file against the spouses Lumibao and their cohorts.'

Letters of August 30, September 5 and October 5, 1994.
Complainant's Allegations

In said August 30, 1994 letter, they stated that:

> `On August 24, 1994, Aldin Tusan of Paraiso, Alabel, Saranggani Province was summon (sic) by Judge Mamerto Panal to appear before the Office of the Chief of Police, Carlos Abastillas because of the past experience of the police brutality, Aldin Tusan requested Mrs. Coraminda Lumibao, President of NGO-Alabel Reform Movement, Inc. to accompany him.'
>
> `During the meeting Judge Panal was already very angry at Aldin Tusan for bringing to the attention of the Supreme Court in his complaint regarding his son (sic) pending case. Judge Panal was not able to control his anger when Coraminda Lumibao suggested that Aldin Tusan should also be given the chance to explain his reason as to why he brought his complaint against Judge Mamerto Panal. At this juncture the Judge bang (sic) his fist on the table and pinpointed on me his finger and shouted (Putang Ina mo, Mrs. Lumibao). There was a commotion immediately after that because some policemen entered the office and push (sic) me practically drug (sic) me out of the office because Judge Mamerto Panal was on the act of slapping me. To humiliate me further Judge Panal was shouting at the top of his voice in front of the police station, threatening me with a court suit. x x x
>
> `Judge Panal is now in the warpath committing grave misconduct, disgraceful and immoral conduct, conduct grossly prejudicial to the interest of the Court, oppression and threatening those who are complaining against him, failure to attend to his duties, and many others--and he said: `PUTANG INA MO!'
>
> x x x x x x x x x
>
> `Judge Panal received the letter from the Supreme Court for him to make a reply-- but instead he lambasted, threatened and harassed our witnesses so they will change their testimony against him, and in so doing he created more trouble. x x x
>
> `Judge Panal questioned Mr. Aldin Tusan for his letter sent to the Chief Justice Andres Narvasa x x x.

In our letter to the Supreme Court on July 8, 1994 we wrote on Page 4 and Number 11 that the real killer is close to the Sibugan-Panal Clan and possibly relatives -- the problem is that the killer is at large, while Tusan's son is in jail-- and the Judge did not care about the case. It was during the confrontation of Judge Panal with Mr. Tusan that Judge Panal said to Mrs. Lumibao: `PUTANG INA MOMRS. (sic) LUMIBAO!' x x x

> `One of the documents we gave to the Supreme Court on July 8, 1994 was the Certification of Mr. Nemesio Cabasag which stated that Judge Panal got some shares from the land where Pedro Escoltora was killed by the relatives of Judge Panal, but said convicted killer was acquitted-- and we suspected that Judge Panal has something to do with the case. Judge Panal wanted Mr. Cabasag to recant his statements. x x x but in the meeting at the Office of the Barangay Captain there was no denial that Judge Panal got shares of rice from the land. x x x As a matter of fact, Mr. Ante Pas de la Cruz admitted the shares of Judge Panal, and presented a document the wife of Judge Panal (sic), Raquel Sibugan Panal had allegedly leased the land. x x x This bolsters our suspicion of some hocus pocus about this land. Mr. Manuel Calles and Mr. Felicito Gumapac saw

> Judge's anger x x x. To make matters worse for Judge Panal, I received some letters from the owners of the land such as Mr. Manuel Lopez, Jr. and Mr. Victoriano Canillo who claimed that they cannot enter their land because Judge Panal's relative Rolando Lalisan is around the area. On July 4, 1994 we gave a request to the Supreme Court for the re-opening and re-trial of C.C. 3555 of Branch 23 in the 11th Judicial Region because we have witnesses and evidences (sic) that can re-convict Mr. Rolando Lalisan. x x x
>
> `Here are other complaints against Judge Panal:

- The Albarracins complained that Judge Panal wanted rape victim Hermelina Albarracin to make amicable settlement but they refused, and Judge Panal have (sic) the suspect bail bond (sic) and the suspect is now at large. x x x' (Copied verbatim)

In their October 5, 1994 letter, they stated that:

> `Judge Panal remained silent for his misconduct in asking for amicable settlement for the rape victims Hermelina Albarracin and Merlita Abayle. Miss Albarracin refused and the suspect is now at large; while Miss Abayle accepted but complained as of April 1994 that she was only paid P3,000.00. Instead of the P6,000.00 promised by the Sibugan-Panal clan (sic). x x x'
>
> `Judge Panal did not mention in his report that he had a confrontation with Mr. Nemesio Cabasag in the presence of the Barangay Captain in the Barangay Hall. It was confirmed that the report of Mr. Cabasag that Panal harvested from a land he did not own -- a lease agreement is fake because the lessor did not own the land either. Mr. Manuel Lopez, Jr. is the real owner of the land where Judge Panal and De la Cruz harvested. Judge Panal showed his oppression, anger, misconduct and threats to file cases against those who are witnessing against him. x x x (Copied verbatim)

Respondent Judge's Comment.

In his comment dated October 14, 1994, Judge Panal stated that:

> `In re. Complaint for Rape,
> People vs. Fuentes
>
> `A complaint was filed on 17 June 1992 by Hermelina Albarracin against Valentin Fuentes for the crime of rape x x x; on 18 June 1992, the Court issued an Order furnishing the accused (who was already arrested and detained) copies of the complaint and affidavits and directing him to submit controverting evidence in his behalf x x x; on 8 and 9 of July 1992, the Court conducted the preliminary investigation; on 25 July 1992, the Court issued an order directing the release of the accused from jail after he posted a cash bond of P5,000.00 x x x; x x x on 27 August 1992, the Court issued a Resolution `finding no prima facie case of rape but only qualified seduction' x x x; and on 23 September 1992, the reviewing 4[th] Asst. Provincial Prosecutor issued an order, duly approved by the Provincial Prosecutor x x x sustaining my findings of a prima facie case of qualified seduction only.
>
> x x x x x x x x x
>
> `In re: Letter-Complaint vs. Undersigned
>
> `At the inception of the filing of the case for rape, Hermana -- the wife of accused Valentin Fuentes and sister of complainant's deceased father, pleaded and sought for an amicable settlement offering to indemnify the offended party with the sum of P15,000.00. Her cash on hand then was only P5,000.00 but two of the accused's children were willing to dispose each of their horse and carabao just to raise the offered amount of P15,000.00. The offer was rejected although some of the relatives who were present showed approval but a price double the offer which the accused cannot raise being an ordinary farmer, and without any real estate or personal property of value of his own. Amicable settlement being remote, the Court pushed through with its preliminary

> investigation until concluded.
>
> `Going through the preliminary investigation, I found no case of rape against accused but only of qualified seduction. With these findings and having in mind the offer for amicable settlement, I advised [not persuade] the complainant-victim, her mother, her brothers and relatives who were present to consider accepting the offer of P15,000.00 (the only amount that can be raised with the help of the children) taking into consideration the following: [1] the case being probationable (sic), the accused may just plead guilty and avail of the benefits of probation thereby avoiding imprisonment; [2] the reality that if no settlement is reached and judgement is rendered adverse to the accused, the offended party may not get anything from the accused who, according to the complainant herself and which is very true, has no land or any personal property of value that can possibly be levied on execution by the sheriff to satisfy damages that may be awarded by the court; [3] the scandal or humiliation the complainant may undergo during the trial which will do more harm than good; [4] preservation of family ties/ solidarity.
>
> `The matter of settlement was openly discussed in good faith not only with the aggrieved parties but also with the private and police prosecutors (sic) who subscribed to the wisdom of such idea. It was done not in a covert manner but with transparency. To charge me to have `told them not to file a case instead, accept the offer of the accused for the amount of P15,000.00' is inaccurate, a bias (sic) statement and a misplaced interpretation of the honest intention of the court in its desire to come up with something beneficial to the interest of the victim under the given situation. The charge `that since he (I) could not convince the victim and the relatives, he(I) stood up , left his (my) books and slam (sic) it on the table and said "Gahi mog ulo" (You're hard headed) (sic) are CLEAR VICIOUS LIES AND MALICIOUS FABRICATION OF FALSEHOOD. In the first place, why should I do that? For what purpose? And above all, what benefit will I get If I resort to coercion...into settling their cases against their will when doing so would only breed prejudice, contempt and discontent aside from its being highly immoral, unprocedural (sic), and reprehensible. Only an ignoramus would do it. If there is anyone I felt obliged to help, it would be the complainant whose elder sister named Rose was our former domestic helper for almost 2 years who, even up to the present, used to come (sic) to our house to sell various ladies' wares and RTW items to the members of my family.' (Copied verbatim)"

Delay in the Remittance of Cash Bail Bond.

On 25 July 1992, Valentin Fuentes, accused in Criminal Case No. 1244 for Qualified Seduction, deposited a cash bail bond in the amount of P5,000.00 pursuant to the order of the court. However, on 18 August 1993, said cash bail bond was ordered forfeited by the court, in favor of the government, due to the failure of the accused to appear in court despite due notice.

On 12 September 1994, Guillermo K. Constantino, Jr., Clerk of Court of the 4[th] MCTC, Malungon-Alabel, Saranggani, wrote a letter addressed to the Chief Accountant of the Supreme Court, viz:

> "Please acknowledge receipt of check with Nos. 471723-AZ amounting to FIVE THOUSAND PESOS (P5,000.00) as fine in Criminal Case No. 1244 entitled PP. vs. Valentin Fuentes for Qualified Seduction corrected (sic) in favor of the Judiciary Development Fund. Such collection will be reflected in the JDF monthly report of collections for September 1994 of Alabel, Saranggani."[5]

In a memorandum dated 20 July 1995, the Office of the Court Administrator (OCA) ventilated the view that a review of the annexes attached to the third indorsement of respondent judge reveals a possible violation of Administrative Circular No. 13-92, which mandates that Clerks of Court are duty bound to immediately deposit fiduciary funds received in the course of duty.

Thus, in a Resolution dated 30 August 1995, the Supreme Court's Second Division required respondent Judge Panal and Clerk of Court Guillermo Constantino, Jr. to explain the more than two year-delay in the remittance of the P5,000.00 cash bail bond.

On 20 October 1995, respondent judge, acting pursuant to the Court's Resolution dated 30 August 1995, filed before the Supreme Court an Explanation letter, thus:

> "[T]he amount of P5,000.00 cash bail bond posted in Criminal Case No. 1244-A, entitled: People versus Fuentes, was deposited on July 25, 1992 by the accused himself, NOT with our court BUT with the Municipal Treasurer of Alabel, Saranggani, under O.R. No. 2664157 U dated 7/25/92, as shown by a photocopy hereto attached and marked as Annex `A,' so that the release of the accused was ordered by the court, in its order on (sic) the same date, a photocopy of which is also attached and marked as Annex `B'. As a matter of practice, treasury where the case is pending (sic).
>
> "The same cash bond was ordered forfeited on 3 March 1993 (Annex `C') and, upon motion for reconsideration (sic). Again, it was ordered forfeited on 18 August 1993 (Annex `D') and a Warrant of Arrest was issued on 19 August 1993 (Annex `E').

Finally, the forfeited P5,000.00 cash bond was released by the Municipal Treasurer of Alabel by way of PNB Check No. 471723, dated June 22, 1994, under the name of the Supreme Court (Annex `F'). It may be noted that while the check was dated June 24, 1994 (which was the date the check was prepared), its release took sometime because of procedural requirement, i.e. preparation of voucher with supporting forfeiture order, decision (28 Dec. 93), pre-audit, signatories of the voucher, etc. so that it was remitted to the Chief Accountant of the Supreme Court on 12 September 1994 (Annex `G'). However, the said check (forfeited cash bond) was returned on 26 September 1994 by Ms. Rita M. Maguyon, Chief of Accounting Division to the Clerk of Court with the instruction to remit the same to the Municipal Treasurer as general fund collection (Annex `H') which was complied with by turning over the returned check to the Municipal Treasurer of Alabel who acknowledged receipt thereof under O.R. 7100505, dated October 12, 1994 (Annex `I')."[6]

For his part, Clerk of Court Guillermo Constantino, Jr., in a letter dated 09 October 1995 addressed to the Supreme Court's Second Division, clarified that the P5,000.00 cash bail bond was deposited by accused Fuentes with the Office of the Municipal Treasurer of Alabel, Saranggani and not with the MCTC, Malungon-Alabel.

Constantino further alleged[7]:

> "The cash bond posted by accused Valentin Fuentes in the amount of P5,000.00 and deposited in the Municipal Treasury of Alabel, Saranggani under O.R. No. 2664157 stayed intact where it was deposited (in the Municipal Treasury) from July 25, 1992 until June 22, 1994 when the same cash bond was forfeited in favor of the government on which latter-stated date the Municipal Treasurer of Alabel, Saranggani issued a check with check no. 471723 dated June 22, 1994 which check was forwarded to the Supreme Court on September 12, 1994 upon instructions from Judge Mamerto C. Panal. For the above-stated span of time, the cash bond never went loose nor astray. As can be gleaned from the above facts, it had stayed within the confines of the Municipal Treasury of Alabel. Check No. 471723 was returned by the Supreme Court to this court advising, among others, that the said check should be remitted to the Local Treasurer which Judge Mamerto C. Panal did on October 12,1994 under O.R. 7100505. Please see Annex H (Xerox copy of O.R. No. 7100505 dated October 12, 1994)."

On 19 June 1996, the Supreme Court's Second Division resolved to note and accept the explanations of respondent judge and Clerk of Court Guillermo Constantino, Jr. On the same resolution, the Court further required Constantino to explain why he should not be disciplinarily dealt with for being remiss in the performance of his duties.

Additionally, in the Resolution of 30 August 1995[8] the High Court referred to Executive Judge Teodoro A. Dizon, Jr., RTC, General Santos City, South Cotobato , the following charges against respondent for investigation, report and recommendation:

> "1. Judge Panal's cultivation of the land covered by TCT No. T-908 pursuant to Emancipation Patent No. A-069654 of the Registry of Deeds of Cotabato;
>
> 2. His going to ten (10) election precincts last May 9, 1994 Barangay Election Day, allegedly "showing his weight around as their dynasty supported some candidates"; and
>
> 3. His hurling of invectives at the complainants on August 24, 1994 at the Office of the Chief of Police, Alabel, Saranggani."

Acting pursuant to the Court's Resolution[9], Judge Dizon commenced with the investigation of and conducted hearings on the above-mentioned matters. In a letter dated 10 December 1996, Judge Dizon, upon receipt of a request for inhibition from the complainants, sought the advice of this Court whether "he will inhibit himself in making the corresponding report and recommendation or to return back the entire carpeta of the case as prayed for by the complainant Lumibao for proper judicial disposition."

On 03 September 1997, the High Court's Second Division resolved to require Judge Dizon to submit his report, findings and recommendations on Administrative Matter No. 95-35-MTJ. Nevertheless, in a Resolution dated 23 June 1998, the High Tribunal relieved Judge Dizon of the duty to submit his recommendation and instead designated Executive Judge Antonio S. Alano of the RTC, General Santos City, to make the necessary recommendation regarding the case. Accordingly, on 19 November 1998, the records of Administrative Matter 95-35-MTJ were forwarded to Judge Alano for evaluation.

In a report, dated 02 December 1998, addressed to the Supreme Court, Executive Judge Alano made the following recommendations:

> "Wherefore, premises considered, it is hereby recommended that in Charge No. 1[10], considering that the mortgage had been redeemed/released in 1993 one year before the incident happened on August 24, 1994, the respondent should be warned not to repeat the same.
>
> In Charge No. 2[11] ,he should be exonerated for lack of evidence.
>
> In Charge No. 3[12], respondent should be warned or fined at the discretion of the court for misbehavior."

Consequently, the High Court's Second Division, in a Resolution dated 08 February 1999[13], referred the instant administrative matter to the Office of the Court Administrator for evaluation, report and recommendation.

In a Memorandum dated 11 August 1999, the OCA imputed liability to respondent Judge Panal with respect to Charge No. 1 and Charge No. 3. On the contrary, the OCA adopted the findings of Executive Judge Alano with respect to Charge No. 2, thereby absolving respondent judge as to the charge of "electioneering".

As a result of these findings, the OCA, in its Memorandum of the same date, submitted the following recommendations:

> "In view of the foregoing, the undersigned respectfully recommends that a fine in the amount of P5,000.00 be imposed against respondent Judge Mamerto C. Panal , 4th MCTC, Malungon-Alabel, with a stern warning that a repetition of the same or similar acts in the future would be dealt with more severely."[14]

COURT'S RULING

We are in accord with the findings and recommendations of the OCA as regards the charges hurled against respondent.

First, with respect to the specific charge of delay in the remittance of the cash bail bond, this Court is of the view

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that the explanation of respondent judge satisfies the test of sufficiency so as to exonerate him from liability in relation to said charge. The records reveal that the cash bail bond in the amount of P5,000.00 was deposited by the accused on 25 July 1992 not with the lower court but with the Municipal Treasurer of Alabel, Saranggani, as evidenced by O.R. No. 2664157 U, attached and made part of the records of the case. It is well to note that the cash bond was forfeited by order of the court and subsequently released by the Municipal Treasurer of Alabel by way of PNB Check No. 471723, on 22 June 1994, in the name of the Supreme Court.

The annexes attached by respondent judge to his Explanation, dated 20 October 1995, supports the allegations that "while the check was dated June 24, 1994, its release took sometime because of procedural requirement, i.e., preparation of voucher with supporting forfeiture order, decision (28 December 1993), pre-audit, signatories of the voucher, etc. so that it was remitted to the Chief Accountant of the Supreme Court on 12 September 1994."

Second, as to the charge of "electioneering", where complainants alleged that respondent judge went around ten (10) precincts during the Barangay Elections of 09 May 1994 "showing his weight around as their dynasty supported some candidates", the same must similarly fail for lack of evidence.

We concur with the findings of Executive Judge Antonio Alano on this matter, which we quote:

> " A review of the records reveals that no evidence was presented by the complainant on the matter. On the other hand, respondent presented Salih T. Aquia who testified that he is 56 years old, married holding office at Alabel, Saranggani as its Election Officer. He opined that the election conducted was peaceful, orderly and there was no untoward incident reported to his office. He can attest to the fact that on May 9, 1994, there were no relatives of Judge Panal, either by consanguinity or affinity, who run (sic) for any Barangay position.

On the part of Judge Panal, he stated that this charge implying electioneering, is a big lie, a malicious prosecution, hence he strongly deny (sic) the same. He has never involved himself in partisan politics except to vote. He has been a registered voter in precinct 11 of Poblacion, Alabel since 1992. His presence in the precinct center is to cast his vote (sic) together with his wife and parents-in-law, when he assisted to locate their names in the precinct."

Additionally, complainants may not validly question respondent judge's qualifications as a voter in Alabel, Saranggani, by casting aspersions with regard to the latter's residence, at least not through the expediency of raising this issue in the instant administrative matter. Verily, Administrative Matter No. 95-35-MTJ is neither the appropriate forum nor the proper vehicle to nurse this argument. Questions pertaining to this matter are judicial in nature and ought to be threshed out in a judicial proceeding and definitely not in an administrative one. An administrative complaint is not a valid substitute for a judicial action.[15]

Third, as to the charge of cultivation of land covered by TCT No. T-908, this Court is of the view that although it was not proven that respondent judge actually cultivated or caused the cultivation of the land--the ownership of which does not belong to him--respondent may still incur liability for transgressing the Code of Judicial Conduct.

Rule 5.02, Canon 5 of the Code of Judicial Conduct explicitly provides:

> "A judge shall refrain from financial and business dealings that tends to reflect adversely on the court's partiality, interfere with the proper performance of judicial activities, or increase involvement with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests as to minimize the number of cases giving ground for disqualification."

Verily, as a judge, respondent Panal should have exercised a higher degree of prudence and caution in entering into contracts involving a parcel of land the ownership of which is in question. As member of the bench and officer of the court, respondent judge owes to the public the responsibility not only to possess a firm grasp and

clear understanding of the law but also to nurture propriety and integrity in all his dealings and ventures. Similarly, as a person well-versed with the intricacies of the law and confronted with the peculiarities of the instant case, respondent judge should have delved deeper into the nature of the land and its incidents; he should have ascertained for himself whether said parcel of land was already covered under the Torrens system and if so, the identity of the holder of the title thereof. Thus, respondent's feigned ignorance of the title over said parcel of land held by Mr. Lopez should not be accorded much weight.

The observations of the OCA is elucidating, to wit:

> "As a judge, respondent should have known better than to enter into a contract concerning property the title or ownership of which does not appear with the contracting party. To do so would invite litigation against the parties to said contract.
>
> Nor can respondent's posturing that he was not a party to the contract over the said parcel of land and that the same was entered into by his wife (mortgagee) and Antipas de la Cruz (mortgagor) without his knowledge and consent, be given consideration. While it is true that the contract of mortgage did not name the respondent as party, de la Cruz (mortgagor) who was a witness for the respondent admitted on cross-examination that both respondent and his wife were parties to the contract (TSN,April 25, 1996, p. 35) Furthermore, de la Cruz also admitted appearing in a mediation before Barangay Captain Epifanio Ramirez, wherein he stated that there was an agreed 70%-30% sharing with respondent on the harvest of the parcel of land and that respondent prepared the mortgage over the same (TSN, April 25,1996, pp.31-32)
>
> Judge Alano's findings that "considering that the contract which was entered into on March 6, 1991 (between de la Cruz and Panal) was redeemed or released in (sic) December 2, 1993 by assigning it to one Frederick Tulfo, Judge Panal had already ceased to have any interest in the property", cannot excuse respondent from liability. If so, every member of the judiciary or the courts can evade liability by simply relinquishing their (sic) interest on the subject matter of the dispute despite any injury or prejudice he may had (sic) inflicted on (sic) another party, to the public, or to the public's perception and confidence on the system of administering justice."

The Canons dictate that a judge should avoid impropriety and the appearance of impropriety in all activities[16] In the same vein, the personal behavior of a judge, not only upon the bench but also in his everyday life, should be above reproach and free from the appearance of impropriety[17] Judges should not only be men of the highest integrity but should at all times conduct themselves in such a manner as to be above suspicion[18] It is thus the duty of the members of the bench to avoid any impression of impropriety to protect the image of and integrity of the judiciary which in recent times has been the object of criticism and controversy[19]

Fourth, as to the charge of hurling invectives[20] against complainant Coraminda Lumibao, this Court finds respondent guilty of misconduct. To support complainant's allegations, three witnesses were presented: Coraminda Lumibao; Johanna Montinola, who corroborated Lumibao's testimony and Hadji Mohamad Maulana, who heard respondent judge utter the words, "Kung lalaki ka lang makatikim ka sa akin, putang ina ka[21].", referring to complainant Coraminda Lumibao.

On the contrary, respondent in denying the charge, presented SP02 Rodolfo Torcuator, SP01 Hernani Gonzales and Chief Of Police Carlos G. Abastilles.

After a careful scrutiny of the testimonies of the witnesses, both for the complainants and respondent, we are convinced that respondent indeed has performed acts and uttered words that, in effect, degraded the image of the courts before the eyes of the public.

In his affidavit, respondent even admitted that if ever he engaged himself in an altercation or heated exchange of

words, such actuation is a spontaneous, natural reaction of any person who felt insulted, embarrassed and humiliated.

To our mind, this attempt on the part of respondent to justify the act is totally uncalled for. By virtue of the very office he holds, the public expects more of respondent as he undeniably occupies an exalted yet delicate niche in the administration of justice. Those who don the judicial robe and wield the judicial gavel ought to impress in their consciousness that appearance is an essential manifestation of reality.

From the standpoint of conduct and demeanor expected of a judge, resort to intemperate language only detracts from the respect due a member of the judiciary and becomes self-destructive[22]. A judge should then show no shortness of temper which merely detracts from the equanimity and judiciousness that should be the constant marks of a dispenser of justice[23]

High-strung and belligerent behavior has no place in government service where the personnel are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence[24]. For patience and gravity of hearing is an essential part of justice; and an over-speaking judge is no well-tuned cymbal[25]

Similarly, being in the forefront of the noble task of dispensing justice, respondent judge should have demonstrated finesse especially in his choice of words, as normally expected of men of his stature. Verily, the use of vulgar and curt language does not befit the person of a judge, who is viewed by the public as men and women of wisdom and scruples.

Arrogance, to be sure, on the part of respondent would only erode the image of the courts as temples of justice and refuge of the oppressed. In fine, respondent's actuations are incongruent to the Code of Judicial Conduct which sternly demands of judges rectitude and urbanity in the conduct of their affairs, official or otherwise.

After all, judges in the watchful eyes of the common "tao", are the keepers of the law and the staunch sentinels of justice.

WHEREFORE, in view of the foregoing, the Court finds respondent Judge Mamerto C. Panal guilty of misconduct, in clear violation of the Code of Judicial Conduct and the Canons of Judicial Ethics.

ACCORDINGLY, the Court hereby imposes upon respondent judge a fine of Five Thousand Pesos (P 5,000.00) and further sternly warns respondent that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and De Leon, Jr. JJ., concur.

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[1] Letter dated 06 April 1994, p. 1264, Rollo.

[2] Letter dated 31 May 1994, p. 1265, Ibid.

[3] Letter dated 30 August 1994, p. 1268, Ibid.

[4] Pp. 1264-1276, Rollo.

[5] Rollo, p. 1271.

[6] Rollo, p. 1272.

[7] Ibid., pp.107-108.

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[8] Rollo, pp. 119-120.

[9] Resolution dated 30 August 1995.

[10] Cultivation of land.

[11] Respondent Judge's going to ten (10) election precincts .

[12] Hurling of invectives against complainant Coraminda Lumibao.

[13] P. 1184, Rollo.

[14] P. 1276, Rollo.

[15] Crispin Austria, et. al. Vs. Deputy Sheriffs Maximo Andal and Edric Estrella, A.M. No. P92-741, March 24, 1993.

[16] Canon 2, Code of Judicial Conduct; Alfonso vs. Juanson, 228 SCRA 239.

[17] Canon 3, Canons of Judicial Ethics; Apiag vs. Cantero, 268 SCRA 47.

[18] Li vs. Mijares, 65 SCRA 167.

[19] Nazareno vs. Almario, 268 SCRA 657.

[20] "Putang ina mo, Mrs. Lumibao!"

[21] TSN, February 29, 1996; Rollo, p. 884.

[22] Galang vs. Judge Santos, AM. No. MTJ-99-1197, May 26, 1999; Court Employees of the RTC, Br. 27, Gingoog City vs. Galon, 265 SCRA 770.

[23] Kalalang vs. Fernadez, Administrative Case No. 175-J, June 10,1971; 39 SCRA 418.

[24] Quiroz vs. Orfila, 272 SCRA 324.

[25] Delgra, Jr. vs Gonzales, 31 SCRA 237; Malcolm, Legal and Judicial Ethics, 1949 ed. , pp.214-215, citing Bacon in his Essay ,"Of Judicature".

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