

DR. ERNESTO J. YUSON, PETITIONER, VS. JUDGE FEDERICO V. NOEL, RESPONDENT.

A.M. No. RTJ-91-762. October 01, 1993

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7e61ad524e66/>

PER CURIAM:

This case was by resolution dated February 18, 1993, referred to Justice Quirino Abad Santos of the Court of Appeals for investigation, report and recommendation within ninety days from his receipt of the pertinent records.

The facts are narrated in his Report and Recommendation dated September 1, 1993, as follows:

On August 4, 1986, herein complainant filed a complaint against Spouses Benjohn and Gloyna Fetalvero for collection and damages, docketed as Civil Case No. II-746, entitled "DR. ERNESTO YUSON, Plaintiff, versus SPOUSES BENJOHN & GLOYNA FETALVERO, defendants," which was raffled to Branch 2 of the Regional Trial Court of Iligan City, presided by the respondent Judge.

On December 6, 1988, a Decision was rendered by respondent Judge, in favor of the plaintiff (herein complainant), the dispositive portion of which reads:

"WHEREFORE, premises considered, defendants are ordered to (sic) plaintiff:

- 1) P42,720.00 representing the unpaid balance of the obligation of defendants to plaintiff plus an interest of 12% per annum from August 14, 1987 until the full amount is paid;
- 2) P2,000.00 as attorney's fees; and
- 3) To pay costs."

Upon motion for reconsideration of the plaintiff, respondent Judge amended the aforesaid decision in an Order dated April 25, 1989, thus:

"WHEREFORE, premises considered, defendants are ordered to pay plaintiff:

- 1) The interest of 12% per annum of the amount of P62,720.00 counted from August 4, 1986 up to August 14, 1987;
- 2) P42,720.00 representing the unpaid balance of the obligation of defendants to plaintiff plus an interest of 12% per annum from August 14, 1987 until the full amount is paid;
- 3) P2,000.00 as attorney's fees; and
- 4) To pay costs."

Defendants' motion for reconsideration of the aforesaid April 25, 1989 Order was denied in an Order dated July 6, 1989.

From the denial of defendants' motion for reconsideration and the judgment thus amended, no appeal was ever taken therefrom. The decision thus became final and executory.

In virtue thereof, defendants paid the sum of P42,720.00 representing the unpaid balance of the obligation of defendants to the plaintiff to the respondent Judge who issued a "RECEIPT OF DEPOSIT" dated June 15, 1989, acknowledging receipt of the sum of P42,720.00, Philippine Currency. Said amount was purportedly "deposited in this court in payment of the principal obligation as contained in the judgment rendered by this court in favor of the plaintiff."

Not knowing that the amount of P42,720.00 representing the payment of the unpaid balance of the obligation of defendants to plaintiff was already received by respondent Judge, plaintiff, on September 11, 1989, filed a Motion for Execution which was not resolved despite an ex-parte motion for early resolution. Said motion was granted only on April 6, 1990 after plaintiff sought the intervention of the Supreme Court as per his letter dated February 6, 1990 addressed to the Honorable Marcelo B. Fernan, the then Chief Justice of the Supreme Court.

Pursuant to the writ of execution, Deputy Sheriff Elias Anacleto wrote defendants requiring them to pay the "plaintiff the amount of P42,720.00 representing the unpaid balance with 12% interest per annum from August 14, 1987 until full payment; the amount of P2,000.00 as attorney's fees, and the costs, or a total amount of P60,099.70, and on August 8, 1990, the said Deputy Sheriff caused to be recorded in the Office of the Register of Deeds, Iligan City, a Notice of Levy on defendants' two (2) parcels of land.

On October 8, 1990, defendants responded to the letter of the deputy sheriff and informed said Deputy Sheriff that they (defendants) "had long complied with and paid the judgment amount of P42,720.00 Pesos to the court as evidenced by the RECEIPT dated June 15, 1989, duly signed by the Honorable Presiding Judge Federico V. Noel xxx". Defendants, therefore, requested the Sheriff "to recall and remove the notice of levy on my properties immediately upon receipt hereof."

Whereupon, on January 15, 1991, the defendants, through their counsel, Atty. Estelito Alvia, filed a motion to Quash Writ of Execution, Notice of Levy and Notice of Sheriff's Sale on the ground that the judgment amount of P42,720.00 was already paid by said defendants to respondent Judge, which motion was vigorously opposed by the plaintiff on the ground that "the payment has not been tendered to plaintiff."

On January 24, 1991, respondent Judge issued an Order requiring defendants to file a rejoinder to the Opposition of the plaintiff, and ordering the Deputy Sheriff to hold in abeyance the sale of the properties levied.

As a consequence thereof, and as a last-ditch effort to collect from the respondent Judge the amount of P42,720.00, plaintiff wrote respondent on February 20, 1991, making a "final and last demand" for the respondent Judge to resolve the motion to quash and the opposition thereto and to deliver the amount of P42,720.00 to the proper accountable officer of the court with warning that should respondent Judge fail so to do, plaintiff will file the corresponding administrative complaint against respondent Judge.

Respondent Judge, however, remained adamant. True to his word, plaintiff finally lodged this instant complaint with the Supreme Court.

The Report states that immediately upon receipt of the records of the case, the Investigating Justice caused the issuance of summonses to the parties setting the reception of the complainant's evidence on April 12 and 13, 1993, and the reception of the respondent's evidence on April 14 and 15, 1993, at 8:30 o'clock in the morning.

The respondent failed to appear at the hearings scheduled on April 12 and 13. On the latter date, the complainant submitted his evidence and rested his case. The respondent also failed to appear at the hearings scheduled on April 14 and 15, 1993. Consequently, he was deemed to have waived the presentation of his evidence and the case was considered submitted for resolution.

On April 19, 1993, the respondent filed an Urgent Ex Parte Motion to Reset Hearing. This was granted "in the interest of justice and fair play," and the case was ordered reopened for the reception of his evidence, on May 27

and 28, 1993.

On May 26, 1993, the respondent moved to reset the hearing to June 14, 1993, on the ground that he might be attending the National Convention of Lawyers to be held on June 13-15, 1993 in Manila. The motion was granted. On June 14, 1993, the respondent submitted an Affidavit of Atty. Estelito Alvia which was marked as Exhibit 1. The respondent asked for time to submit a Memorandum to which he said he would attach his other exhibits, to be marked as Exhibits 2 and 3. He was allowed to do so on or before June 30, 1993. He finally submitted his Memorandum on July 21, 1993, within the extension granted to him on his motion, but without the promised Exhibits 2 and 3.

In his Memorandum, the respondent admitted having received the sum of P42,720.00, Philippine currency, from the defendants in Civil Case No. II-764, but denied that the money was still in his possession. He alleged that the payment he received was by check and not in cash and that he returned the check to Atty. Estelito Alvia, the defendant's counsel, with instructions to replace it with a cashier's or manager's check for the correct amount, which should include the interest and the attorney's fees. However, he never received the replacement check.

These allegations were supported by his Exhibit 1, the Affidavit signed by Atty. Alvia, who was, however, never presented at the hearings.

As found by the Investigating Justice:

The theory or defense of respondent Judge as set forth above is too shallow to inspire belief. The evidence appearing on record and the facts obtaining in this case belie such theory or defense, but unerringly point to respondent Judge's culpability of having misappropriated to his own personal use and benefit the amount of P42,720.00, intended for payment of the judgment debt of defendants to plaintiff in Civil Case No. II-746 due to the following:

Firstly, the Affidavit allegedly executed by Atty. Alvia cannot be given probative value because it partakes of hearsay evidence. Atty. Alvia was not presented as a witness and therefore the information that he gave through the said affidavit cannot be tested since the adverse party did not have the opportunity to cross-examine him.

Secondly, the Affidavit of Atty. Estelito Alvia relied upon by respondent judge to exculpate him from the quagmire of having misappropriated the money is totally repugnant to the assertions of the very same Atty. Alvia in his "Motion to Quash Writ of Execution, Notice of Levy and Notice of Sheriff's Sale" which he filed on January 15, 1991, almost two (2) years, or to be exact, one (1) year and eight (8) months, after respondent Judge issued the Receipt of Deposit on June 15, 1989, where Atty. Alvia asserted:

"1. That the judgment amount of P42,720.00 in the above-entitled case had already been paid by defendants to plaintiff through the Honorable Presiding Judge as evidenced by RECEIPT dated June 15, 1989, x x x."

This is bolstered by the Letter dated 8 October 1990 of defendant Benjohn A. Fetalvero to Mr. Elias B. Anacleto, Deputy Sheriff of RTC Branch 02, Iligan City, informing said Sheriff that defendant "had long complied with and paid the judgment amount of P42,720.00 Pesos to the court as evidenced by the RECEIPT dated June 15, 1989 duly signed by the Honorable Presiding Judge, Federico V. Noel," thereby absolutely negating the thesis of respondent Judge.

Thirdly, it is too glaring a fact that when Atty. Alvia filed this motion to quash, etc. on January 15, 1991, or one (1) year and eight (8) months after respondent Judge received the sum of P42,720.00 which he alleged was in "check" on June 15, 1989, nothing was heard from said respondent Judge. Respondent Judge did not protest that he had returned back the amount of P42,720.00 or the "check" to Atty. Alvia, as he now wants to project in this case. What respondent Judge did was to require the counsel of defendant (Atty. Alvia) to file a Rejoinder

to the Opposition of the plaintiff, designed to trifle with the resolution of the motion to quash, etc. It is now too late in the day for respondent Judge to liberate himself from the quagmire of having received the amount of P42,720.00 when in the first opportunity, he has not done so.

Moreover, the RECEIPT OF DEPOSIT dated June 15, 1989 speaks of the sum of P42,720.00. There is nothing in the Receipt of Deposit which suggests that what respondent Judge received from defendants was a check.

In any event, the act of respondent Judge in personally receiving the money or "check" as payment of the money judgment is improper, if not irregular, and contrary to established practice which opened the door for respondent Judge to convert, and eventually misappropriate, the amount received by him.

It is worthy to note, furthermore, that while the RECEIPT OF DEPOSIT dated June 15, 1989 was issued in Civil Case No. 11--746, the fact remains that the record of said Civil Case No. 11-746 does not include the original or a copy of said Receipt of Deposit, xerox copy of which only came in the record when defendants filed on January 15, 1991 a Motion to Quash Writ of Execution, Notice of Levy and Notice of Sheriff's Sale where it was attached as Annex "A" thereof. This fact depicts the sinister motive of respondent Judge to convert and misappropriate the sum of P42,720.00.

And finally, no less significant is the delay in resolving complainant's motion for execution and the motion to quash writ of execution which until now respondent Judge has not acted upon.

Judge's conduct in the bench and in the discharge of his official duty should be free from the appearance of impropriety and beyond reproach. Judges should not only be men of highest integrity but they should also at all times conduct themselves in such manner as to be above suspicion.

The Court has carefully studied the findings of the Investigating Justice and agrees with him completely. There is no question that the respondent has abused his office as a judge and misappropriated the amount deposited with him in settlement of the judgment debt. There is enough evidence to hold him guilty of the administrative charge in this case. There is also a prima facie showing that he has committed a criminal offense under Article 217 of the Revised Penal Code.

A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty. He should never use his office for his own aggrandizement to the prejudice of the litigants before him. He should ever strive to preserve the good name of the court on which he sits and avoid any indiscretion that will defile its probity.

The respondent has not lived up to these exacting standards. He has betrayed his oath and debased his name. He has impaired the image of the Judiciary to which he owes the duty of loyalty and the obligation to keep it at all times above suspicion and worthy of the people's trust. No less importantly, he has also injured the herein complainant, who has yet to receive the money entrusted to the respondent for the satisfaction of the judgment that became final and executory more than three years ago.

The Investigating Justice recommends the penalty of from suspension for one year to dismissal, depending on the respondent's record. We find that the respondent is at present facing an administrative charge for immorality. Two other charges for non-payment of rentals and for gross inefficiency, partiality and ignorance of the laws, have been dismissed. His record, such as it is, has in any event been indelibly stained with the present charge. The mere length of his service (for ten years) cannot mitigate the gravity of his offense or the penalty he deserves. It is clear from the facts here established that the respondent does not deserve to remain in the Judiciary, where integrity is an indispensable credential.

ACCORDINGLY, respondent Judge FEDERICO V. NOEL is hereby DISMISSED, with prejudice to his appointment to any position in the government, including government-owned or controlled corporations, and with

forfeiture of all retirement benefits except his accrued leave credits. This decision is immediately executory and he shall, upon notice, CEASE and DESIST from exercising his office as Judge of the Regional Trial Court of Iligan City. He is also ordered to pay the complainant, Dr. Ernesto J. Yuson, the amount of P42,720.00, with legal interest from January 15, 1989, until fully paid.

Let a copy of this Decision be sent to the Secretary of Justice for appropriate action.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

Griño-Aquino, J., on official leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.