

RAFAEL S. DADIVAS, JR., COMPLAINANT, VS. HON. CESAR KINTANAR, RESPONDENT.

Adm. Case No. 238-J. November 29, 1972

Ponente: RUIZ CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8fcd213ce60a/>

RUIZ CASTRO, J.:

Rafael S. Dadivas, Jr. (hereinafter referred to as the complainant) filed the present administrative complaint with this Court on March 16, 1972 against the Honorable Cesar Kintanar (hereinafter referred to as the respondent), then presiding judge of Branch IV of the Court of First Instance of Negros Occidental, charging him with grave misconduct and serious inefficiency. The complainant strongly urged this Court, pending proceedings, to restrain the respondent from taking further action in Civil Case 9343 of his court, and to recommend the suspension of the payment of his retirement gratuity and other benefits.[1]

The record discloses that the complainant, on April 10, 1970, brought action for damages arising from breach of contract against the Elizalde International (Phil.) Inc. and its officers — Manuel Elizalde, Sr, president; Francisco Elizalde, vice-president; and Jesus Bilbao, general manager — in the Court of First Instance of Negros Occidental. By raffle, the case (docketed as Civil Case 9343) was assigned to the sala of the respondent.

The complainant imputes to the respondent partiality in favor of the defendants in the said civil case, reciting a litany of acts which he avers are constitutive of serious misconduct on the part of the respondent, to wit:

- The respondent lumped together the pre-trial and the trial proper of Civil Case 9343.
- Notwithstanding the non-appearance of the defendants at the pre-trial, the respondent granted postponements thrice from July 8, 1970 to November 17, 1970.
- At the pre-trial on November 17, 1970, although the defendants then failed to appear, the respondent ordered the complainant to proceed with the trial of Civil Case 9343 on the merits without holding the mandatory pre-trial.
- The respondent interrupted and stopped the complainant while testifying on the witness stand, and suspended the proceedings upon the verbal manifestation of the defense counsel that he intended to secure the deposition by oral examination of the defendant Jesus Bilbao in Makati, Rizal.
- On November 24, 1970, the respondent, in violation of an existing Department of Justice circular requiring judges leaving their districts on regular session days to give notice to the said Department, left Bacolod City, returning only on December 1, 1970, thereby thwarting the complainant's efforts to stop the taking of the deposition of the defendant Bilbao through an urgent motion filed on November 23, 1970 and set for hearing on November 26, 1970.

- On December 10, 1970, the respondent, acting on the complainant's written notice filed on November 23, 1970 for the taking of the deposition upon oral examination of the defendants Manuel and Francisco Elizalde and on the defense counsel's written motion dated December 1, 1970 asking for the taking of the defendants' deposition not upon oral examination but only upon written interrogatories, ordered and allowed the taking of the deposition of the said defendants upon written interrogatories, but left undetermined the complainant's urgent motion to stop the taking of the deposition of the defendant Bilbao.

- At the continuation of the trial on June 7, 1971, the respondent suspended the cross-examination of a defense witness upon the oral request of the defense counsel who had to take a late morning flight for Manila.

- On August 16, 1971, after the defendants closed their defense, the respondent allowed the defense counsel to make alterations and/ or new markings on documents attached to the records, without the requisite motion and notice to the complainant. The admissibility of these documents the complainant objected to in his memorandum filed on August 19, 1971 and in his replica submitted on September 9, 1971.

- The respondent, upon the capricious motions of one of the defense counsels, granted postponements of the hearing from August 16, 1971 to December 15, 1971, to allow the defendants to present their sur-rebuttal evidence. On the other hand, the respondent refused and failed to act on and resolve the pending motions filed by the complainant since August 30, 1971, namely: (1) motion for reconsideration of the order for the taking of the deposition of the defendants Elizalde upon written interrogatories; (2) motion seeking the impounding of the defendant company's records to prevent tampering thereof; and (3) motion asking for investigation of the court interpreter on charges of negligence.

On the other recusation of serious inefficiency, the complainant claims that the respondent, if ever, seldom took notes of the facts brought out at the trial and of points of law and jurisprudence, and that he often fell asleep during the trial of cases before him. The complainant adds that the respondent not only showed lack of integrity as well as ignorance of the law and jurisprudence but also demonstrated inefficiency and laxity in the supervision of his court personnel, averring as to the latter that the respondent, notwithstanding his request and motion to require the court stenographer to transcribe the notes of the hearings held on September 1, 1970, August 16 to 26 and September 1, all of the year 1971, refused and failed to so order the said stenographer.

On April 22, 1972 the respondent submitted his answer to this Court, denying the acts complained of. Pointing out that the complainant filed the charges solely to annoy and harass him, the respondent prays for the dismissal of the complaint.

Explaining the facts allegedly amounting to serious misconduct on his part, the respondent states that the complainant himself manifested full agreement with the defense counsel's motion asking for the setting of the pre-trial and trial of Civil Case 9343. And in truth, the respondent adds, he conducted the pre-trial on November 17, 1970.

Anent the allegation that he left Bacolod City on November 23, 1970 and returned only on December 1, 1970 in order to frustrate the complainant's opposition to the taking of the deposition of the defendant Jesus Bilbao, the respondent avers that he went on sick leave from November 23 to 26, 1970 but worked on November 27 and 28, 1970. As to the other two days, November 29, 1970 was a Sunday and the next day (November 30) was a legal holiday. As to the deposition, the Rules of Court sanction the taking of a deposition by written interrogatories.

The respondent also claims that he granted postponements only upon the application of either of the parties with the agreement of the other, and within the limitations prescribed by the Rules of Court. In fact, he allowed the postponement of the hearing of August 16, 1971 upon petition of the complainant.

With regard to the facts allegedly constituting serious inefficiency, the respondent asserts that he took notes during the trial of cases before him, and that he never dozed off during trials but merely closed his eyes. And although he closed his eyes, his ears listened and his mind was focused on the proceedings. He adds that his appealed decisions have received the affirmance of the appellate courts, and that the Bacolod City Lawyers League has passed a resolution of appreciation commending his work as presiding judge of Branch IV of the Court of First Instance of Negros Occidental.

Per resolution dated June 27, 1972, this Court referred the administrative complaint to the Honorable Emilio Gancayco of the Court of Appeals for investigation, report and recommendation. On November 13, 1972 Justice Gancayco submitted his report to this Court, finding that no clear evidence has been adduced to substantiate the charges of grave misconduct and serious inefficiency, and recommending the dismissal of the complaint.

I. Anent the complainant's allegation that the respondent lumped together the pre-trial and trial of Civil Case 9343 to favor the defendants therein, the investigator observes that

"Actually a pre-trial appears to have been conducted by the respondent although the transcript thereof, if any, has not been offered in evidence."

This, the investigator gleans not only from the testimony of the respondent but also from that of the complainant's witness — Rafael S. Dadivas, Sr.

On the questioned postponements, the investigator finds that the respondent set the case for hearing on July 8, 1970; however, the respondent re-scheduled the pre-trial and trial for September 1 and 2, 1970 not only upon the motion of the defense counsel but also upon the manifestation of utecomplainant himself to the same effect. At the pre-trial on September 1, the defense counsel moved for its postponement because he did not have the written authorization to represent the defendants at the said pre-trial. The respondent then granted the defense counsel's motion and re-set the pre-trial for September 14, without objection on the part of the complainant.

On September 14 the defense counsel moved for another postponement, stating that he could not find the written manifestation authorizing him to appear for the defendants. The complainant "let it go at that," interposing no objection, so the respondent re-scheduled the pre-trial and set the trial proper for November 17 and 18, 1970 respectively.

What transpired at the pre-trial is related by the investigator briefly, thus:

"At the pre-trial of November 17, as none of the defendants appeared the defense counsel presented a manifestation authorizing him to represent defendants at the pre-trial. The complainant objected to the same as insufficient and asked that the defendants be adjudged in default, which motion was overruled. Since there was no possibility of settlement the court ordered the plaintiff to proceed with the trial on the merits."

Regarding the depositions, the investigator finds that at the trial proper on November 17, while the complainant was testifying on the witness stand, the defense counsel moved for postponement of the trial, manifesting that he intended to file a written notice (actually filed in court on November 18) to take the deposition upon oral examination of the defendant Bilbao. The respondent, however, notwithstanding the complainant's objection, granted the motion for postponement.

Thereafter, on November 23, 1970, the complainant filed his urgent motion to stop the taking of the deposition of the defendant Bilbao upon oral examination. This motion he submitted for hearing on November 26. He also filed his written notice for the taking of the deposition upon oral examination of the defendants Elizalde before the Court of First Instance of Manila on December 15 and served a copy thereof on the defendants by telegram. On November 26, the respondent went on sick leave, so the complainant re-set the hearing of his urgent motion for

December 10, 1970.

Then the defense counsel, through a motion dated December 1, 1970, objected to the taking of the deposition of the defendants upon oral examination for it "would serve no other practical or useful „ purpose than to cause them uncalled for annoyance and embarrassment," and instead requested the taking of their deposition by written interrogatories. Acting on this motion, the respondent found the request reasonable and ordered the taking of the defendants' deposition only upon written interrogatories.

Then the complainant, noting that the respondent had taken no action on his urgent motion to stop the taking of the deposition of the defendant Bilbao, brought the case by certiorari with mandamus or prohibition to this Court — which we dismissed as premature. Subsequently, on February 16, 1971, the respondent, through an order, denied the urgent motion of the complainant but refrained from ruling on the latter's motion of December 15, 1970 seeking a reconsideration of the order to take the deposition of the defendants and asking the court to reject the deposition of the defendant Bilbao taken upon oral examination, because on the same date (December 15, 1970), the said complainant filed a memorandum.

In connection with the complainant's allegation, brought out during the investigation, that the respondent, in connivance with the court interpreter, ordered the deposition of the defendant Bilbao—although unmarked and not offered — marked as Exhibit 3 and that the said respondent affixed his signature thereon, the investigator finds that the respondent's signature indicated only its receipt by the court.

As to the alleged delay in the disposition of the case, the investigator makes the following observation in his report:

"As to the alleged delay in the case and postponements thereof, I submit that the continuances of the case were either on motion of the plaintiff or of the defense usually with the conformity of the plaintiff, and that the greater delay in the case was caused by the filing of the petition for certiorari with the Supreme Court so that all pending motions were held in abeyance until after said petition was resolved by the highest court."

The other facts pointed to by the complainant as allegedly constitutive of grave misconduct, the investigator unhesitatingly declares not duly proven.

II. On the charge of serious inefficiency — limited by the complainant himself during the investigation to the respondent's laxity in the supervision of his personnel — the investigator states that there is no clear evidence of connivance between the court stenographer and the respondent in the matter of the failure of the said stenographer to transcribe his stenographic notes. The investigator adds that

"As a matter of practice, it is the party in interest who requests the stenographer to transcribe his notes and he follows it up and for a failure to transcribe said notes, the respondent cannot be blamed."

Justice Gancayco likewise finds that the complainant's allegations of bias and laxity in the supervision of court personnel on the part of the respondent are not supported by clear evidence, and that the actuations of the respondent questioned by the complainant were not irregular, much less anomalous.

Charges of serious misconduct and serious inefficiency against judges always deserve earnest study and consideration, because such charges impugn not only the judges' own integrity but also that of the courts. This Court has carefully scrutinized the report rendered by Justice Gancayco and the pleadings, together with the annexes thereto, submitted by the complainant and the respondent. After a painstaking study, this Court finds no valid reason to disagree with the conclusions reached and the recommendation set forth in his report.

ACCORDINGLY, the respondent Judge Cesar Kintanar is absolved of the charges of grave misconduct and

serious inefficiency, and the present complaint is hereby dismissed.

Concepcion, C.J., Makalintal, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Zaldivar, J., did not take part.

[1] The respondent who was automatically retired from the service on April 24, 1972 (when he reached the compulsory retirement age of seventy years) has received his retirement gratuity as well as the money value of his terminal leave, per certification dated November 24, 1972 of the Department of Justice.

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.