

**ANITA LACTAO LIM AND REMEDIOS BERNABE, COMPLAINANTS, VS.
HON. SERAFIN SALVADOR, DISTRICT JUDGE, COURT OF FIRST
INSTANCE, BRANCH XIV, CALOOCAN CITY, RESPONDENT.**

A.M. No. 1426-CFI. February 28, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

The serious charge of "a deliberate miscarriage of justice" was lodged against respondent Judge Serafin Salvador in a letter complaint dated September 30, 1976 by Anita Lactao Lim and Remedios Bernabe of Maysilao, Santolan, Malabon, Rizal. It was addressed to the President of the Integrated Bar, Attorney Liliano B. Neri, who in turn, referred it to this Court. The letter reads in full: "We have the honor to report to you for your kind consideration and appropriate action, a deliberate miscarriage of justice, committed by Judge Serafin Salvador of the Court of First Instance of Rizal, Caloocan City, Branch No. XIV, Said judge rendered a 'decision' on November 28, 1969, in LRC CASE NO. C-136 (Application for Registration of Title, Teodoro Padua, Applicant, without any hearing although the 'decision' expressly says that after several postponements, the hearing was held on August 8, 1969 and evidence was presented. The records of the said case however reveal very clearly that no such hearing was held nor evidence presented. The 'decision' therefore is plain falsification * * *. We are filing this letter-complaint with your office as we are some of the several co-owners who were unduly deprived thru this falsified decision, of our just and legal participation over the land, subject matter of registration. We swear under oath below to show the truth of our accusation." [1]

Respondent Judge was required to comment within ten days from receipt in an indorsement of Acting Judicial Consultant; Justice Ricardo C. Puno, dated October 19, 1976. He did so. It is worded thus: "The records of LRC Case No. C-136 show that the within Petition for Land Registration was filed on January 24, 1968 and was initially heard on January 16, 1969 after due publication. In view of the absence of any oppositor and on motion of counsel for the applicant the latter was allowed to present his evidence ex parte before the Clerk of Court who was commissioned to receive the same. Presentation of evidence was completed on March 8, 1969. While the Court was preparing the decision it was noticed there was no declaration of general default issued so the Court decided to reset the hearing of the case anew on May 2, 1969, May 29, 1969 and July 25, 1969 until the final setting on August 8, 1969 when an order of general default was issued by the Court. The Court having already received and assessed the evidence submitted before the Commissioner promulgated its decision on November 28, 1969 and on November 19, 1971 the Court ordered the issuance of the decree." [2]

After a study of the matter and a review of the records of the case, the Acting Judicial Consultant submitted a memorandum to the Chief Justice on November 17, 1976. His recommendation was for the dismissal of the charges, there being no evidence in support thereof and the explanation of respondent Judge being deemed satisfactory. He invoked the ruling in *Pawaki v. Malik* [3] to the effect that if evidence is lacking to substantiate the complaint, a respondent Judge cannot be held liable.

This Court is in agreement with the conclusion reached. To justify a charge for misconduct, it is required, to quote from an opinion of the then Justice, now Chief Justice, Castro that there be a showing of "a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer." [4] No such fault could be imputed to respondent Judge. The records of the case bear out the veracity of his explanation. There was compliance with the procedure set forth by law. It must be made clear then that the offense imputed to respondent Judge lacks any factual basis. There could not have been therefore "a deliberate miscarriage of justice." If reference is made to the report of the Acting Judicial Consultant, it is merely to demonstrate that this Court in deference to the constitutional right to petition does not ignore complaints against members of the judiciary, even if on the face thereof the lack of merit is quite discernible. [5] That is why the matter was referred to him for preliminary study. He did, as was proper, recommend the dismissal; in his memorandum, he cited the Pawaki and Benedicto cases. Hence mention was made of them. What must be stressed is that in doing so, no implication is to be made as to any lapse by respondent Judge from the correct norm of adjudication. He acted in accordance with the high standard demanded by judicial ethics.

WHEREFORE, the administrative charge against respondent Judge Serafin Salvador of the Court of First Instance of Rizal, Caloocan City, Branch XIV, is dismissed. Let a copy of this resolution be spread on his record.

Antonio and Concepcion, Jr., JJ., concur.

Barredo and Aquino, JJ., concurs in a separate opinion.

[1] Letter Complaint dated September 30, 1976.

[2] Comment dated November 2, 1976.

[3] Adm. Matter No. 6-MJ, November 28, 1975, 68 SCRA 130.

[4] Buenaventura v. Benedicto, Adm. Case No. 137-J, March 27, 1971, 38 SCRA 71, 76. This doctrine goes back to *In re Horrilleno*, 43 Phil. 212 (1922), per Malcolm, J.

[5] Cf. *Tobias v. Ericta*, Adm. Case No. 242-J, July 29, 1972, 46 SCRA 83.

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CONCURRING OPINION

AQUINO, J.:

I concur. The complaint against respondent Judge does not indicate the interest of complainants Anita Lactao Lim and Remedios Bernabe of Maysilo, Santolan, Malabon, Rizal in the lot with an area of 3,480 square meters, located at Barrio Santolan, Malabon, Rizal, which was involved in LRC Case No. C-136, LRC Record No. N-34335, Application for Registration of Title, Teodoro Padua, applicant.

The decision of respondent Judge, which Anita Lactao Lim and Remedios Bernabe branded as "falsified" and a miscarriage of justice, shows that they did not file any opposition to the application for registration.

The decision was rendered on November 28, 1969. The complaint against respondent Judge is dated September 30, 1976. There is no prima facie showing that serious misconduct or inefficiency can be imputed to respondent Judge in connection with his decision in that land registration case. Hence, I concur in the dismissal of the charge.

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CONCURRING OPINION

BARREDO, J.:

I concur, and I join Mr. Justice Aquino's observation that there is no prima facie showing of any misconduct on the part of respondent judge to have even warranted any investigation of the serious charge filed by complainants.

The reference in the main opinion to the rulings that for an administrative complaint to succeed, it must be proven that the conduct of respondent judge was corrupt or inspired by an intention to violate the law and that there must be a showing of "a transgression of some established and definite rule of action, etc.", which are undoubtedly good law, may, however, give the erroneous impression in this case that respondent herein is being exonerated only because of insufficiency of evidence or failure of proof. I would not be doing full justice to respondent should I leave that possible implication uncorrected.

This is not a case where complainants' grave charge of "deliberate miscarriage of justice" levelled against respondent was investigated. What happened here is that after respondent filed his comment, it appeared incontrovertibly therefrom that the charge against him is entirely baseless and that it must have been concocted in complete disregard of the actual facts. The claim of complainants that respondent's decision is a falsification because there was allegedly no hearing held nor evidence presented in support of the application for registration of land referred to is completely belied by the record which shows that in view of the absence of any oppositor, an ex-parte presentation of evidence actually took place before the clerk of court and that said proceeding terminated in fact on March 8, 1969. It is to be emphasized, therefore, that the complainants did not only fail to substantiate their charge with sufficient evidence, they had absolutely no ground to complaint at all. I am stressing this point emphatically because I believe it is not fair to respondent to place him in the same position as an accused in a criminal case who has escaped conviction and penalty, not precisely because he is factually innocent but only because the prosecution has failed to prove his guilt beyond reasonable doubt. In this case of respondent judge, We are exonerating him because the charge against him had no basis at all and could not have been proven in any event. That should keep the record of respondent unblemished altogether.

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