

**REYNALDO BONGCO, COMPLAINANT, VS. HON. MANUEL SERAPIO,
OF THE COURT OF AGRARIAN RELATIONS, BALANGA, BATAAN,
RESPONDENT.***A.M. No. 1804-CAR. February 28, 1980*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-1804/>**ANTONIO, J.:**

In substance, the charge of complainant Reynaldo Bongco that respondent judge has shown "professional incompetence" or gravely abused his authority is predicated on the official acts of respondent in connection with CAR Case No. 634-B-'77. entitled "Reynaldo Bongco v. Felino Cruz, et al." to wit: referring to the Secretary of Agrarian Reforms thru the Regional Director at San Fernando, Pampanga, the preliminary determination of the relationship between the plaintiff Reynaldo Bongco who claims to be an agricultural lessee of the fishpond and the defendants spouses Felino Cruz and Estelita Bongco Cruz, who are owners of said property although such referral can only be made when the action for ejectment is filed by the landowner, and not when the case is filed by the lessee; and lining the temporary restraining order which respondent judge Previously issued on March 22, 1977 on the basis of the certification of the Regional Director of the Department of Agrarian Reforms that the case is proper for trial, as according to said official his preliminary determination showed that Reynaldo Bongco is not an agricultural lessee of the fishpond in question, although respondent judge should have known that the findings of the Department of Agrarian Reforms are not binding on the court.

In his comment, respondent alleged that the aforementioned agrarian case (Case No. 634-B-'77), which was filed on March 18, 1977 by complainant Bongco, is still sub judice as the parties are still presenting their respective evidence; that the respondent has granted the motion of the landowners to refer the case to the Department of Agrarian Reform on March 30, 1977 for preliminary determination of the relationship between the parties because, in his opinion, this was required by Presidential Decree No. 1038; that with respect to his order lifting the temporary restraining order, this was made necessary because after the Department of Agrarian Reforms certified that it was a proper case for trial or hearing by respondent judge and that according to said department's preliminary determination, complainant is not a tenant of the fishpond, he found no more valid justification for the continuance of the temporary restraining order; that the issue of whether complainant is a tenant or not of the fishpond is a matter that is still being litigated in the said case, and under Section 17 of Presidential Decree No. 946, "any order or ruling of a CAR Judge on any issue, question, matter or incident raised before him shall not, by express provision of Section 17, Presidential Decree 946, be contested in any action or proceeding before the appellate court until the hearing shall have been terminated and the case decided on the merits,"¹ thereby implying the prematurity of the issues raised.

On the basis of the foregoing the Deputy Court Administrator recommends the dismissal of the charges for lack of merit.

Considering that it does not appear from the facts that the assailed judicial acts of respondent judge were corrupt or inspired by an intention to violate the law, or were done in persistent disregard of well-known legal rules, this case should be dismissed.

WHEREFORE, in view hereof, the Court finds that the charges are not meritorious and, therefore, orders the case DISMISSED.

SO ORDERED.

Barredo (Chairman), Aquino, Concepcion, J., and Abad Santos, JJ., concur.

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