

**SPOUSES TEODORICO MARFIL, AND TEODORA ESPAÑOLA,
COMPLAINANTS, VS. JUDGE ORLANDO CUACHON, 5TH MUNICIPAL
CIRCUIT COURT OF ISABELA, MOISES PADILLA, NEGROS
OCCIDENTAL, RESPONDENTS.**

A.M. No. 2360-MJ. August 31, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

In a verified complaint dated March 17, 1980 complainants charged respondent Judge Orlando Cuachon of the 5th Judicial Circuit Court of Isabela - Moises Padilla, Negros Occidental, with "gross ignorance of the law and acts unbecoming a Judge."

The complaint alleged that on December 10, 1979, Maria Soto Vda. de Gonzales, an aunt of the wife of respondent, filed a criminal complaint against herein complainant Teodorico Marfil, for violation of Presidential Decree No. 772 (Anti-Squatting Law), before the sala of respondent Judge. Respondent allegedly took cognizance of the case, and after conducting the first stage of the preliminary examination wherein the aggrieved party Maria Soto Vda. de Gonzales and her witnesses were investigated, respondent on January 8, 1980, issued a warrant for the arrest of Teodorico Marfil and fixed the bail at P1,000.00; that on the basis of such warrant complainant Marfil was apprehended on January 18, 1980 and detained. It was also alleged that on February 22, 1980 the accused-complainant hired the services of a counsel who, on the same day, filed a petition for referral of the criminal case to the Ministry of Agrarian Reform due to the tenancy aspect of the case, with prayer that the accused-complainant who is under detention be released. For failure of respondent to order the release of accused-complainant, an urgent motion to quash the criminal action dated March 6, 1980, was filed by the latter's counsel, which motion was however, not favorably acted upon by respondent. Complainants prayed that respondent be removed from his office.

In his comment and answer dated May 16, 1980 respondent Judge averred that when a complaint is filed in court, it becomes a routinary matter to accept the same and conduct a preliminary examination for the purpose of the issuance of a warrant of arrest; that on January 8, 1980 he issued a warrant of arrest; that on January 23, 1980 he issued a subpoena for the parties to appear on February 12, 1980, and on the latter date, the aggrieved party and the Station Commander of Moises Padilla, Negros Occidental, were present, but the accused appeared without counsel. Respondent Judge further alleged that, being aware of the relationship of the wife to the aggrieved party, he announced during the said hearing that the case was called for a possible amicable settlement; that when he found that there was no possibility for an amicable settlement, he issued an order on the same date inhibiting himself from trying the case; that having inhibited himself, he could no longer act on the petition for referral dated February 22, 1980 and motion to quash, dated March 6, 1980, or order the release of the accused.

The complaint is meritorious. Paragraph 1, Section 1, Rule 137 of the Revised Rules of Court clearly provides:

"No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as

heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record."

The above rule is mandatory. Strict compliance with the stringent rule on disqualification on account of relationship between the judge and one of the parties serves not only to protect the rights of the parties and assure an impartial administration of justice but also to prevent erosion of the people's confidence in the judiciary.[1] It is in the essence of due process that a judge, sitting in a case, be at all times wholly free, impartial and in-dependent.

It is an admitted fact that the aggrieved party in Criminal Case No. 449 is the aunt of respondent's wife. However, notwithstanding such relationship and the above-quoted prohibition, respondent took cognizance of the case, conducted a preliminary examination, issued a warrant of arrest by virtue of which complainant was detained and set the case for hearing on February 12, 1980. These actuations of respondent Judge opened to question his ability to act with the cold neutrality of an impartial Judge. We cannot, but censure him for these acts. His alleged effort to settle the case amicably could, therefore, be a mere guise to per-suade the complainant to leave the land in question, to favor the suffered aggrieved party in the Criminal Case, with the added disadvantage on the part of complainant who was then under detention.

The fact that respondent judge subsequently inhibited himself after it became evident that no possible amicable settlement could be reached by the parties does not extenuate his culpability. Respondent judge has violated the salutary norm that a judge should always strive to preserve judicial integrity and discharge his task with deep concern to the cause of justice in accordance with the legal norms, which is the manifestation of the rule above cited, of which respondent counsel pretend ignorance of; otherwise such ignorance is inexcusable.

In the case of *Hurtado vs. Judalena* and Judge Bonong,[2] this Court held that:

"Section 1, Rule 137 of the Revised Rules of Court enumerates without ambiguity the cases in which any judge or judicial officer is dis-qualified from acting as such. The said section, in no uncertain terms, expressly prohibits a judge or judicial officer from sitting in a case where he is related to either party within the sixth degree of consanguinity or affinity. This is mandatory. In the case at bar, it is not denied that the respondent judge is the brother of the respondent Isabel G. Judalena and their close relationship notwithstanding, and despite the prohibition mentioned above, the respondent judge took cognizance of the case and issued the contro-versial order directing the issuance of a writ of preliminary injunction, after which he inhibited himself from sitting on the case for the same reasons. Such action, to our mind, is reprehensible as it erodes the all important confidence in the impartiality of the judiciary."

WHEREFORE, in view of the foregoing, respondent judge is hereby **REPRIMANDED** with warning that a repetition of similar act will be dealt with more severely. Let a copy of this decision be attached to his personal record.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and Guerrero, JJ., concur.
Abad Santos, J., on leave.

[1] *Geotina vs. Gonzales*, 41 SCRA 78.

[2] 84 SCRA 41; See also *Basuan vs. Judge Baes*, 61 SCRA 475.

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