

AD HOC COMMITTEE REPORT — JUDGE SILVERIO S. TAYAO, RTC, BRANCH 143 MAKATI

A.M. No. 93-8-1204-RTC. February 07, 1994

Ponente: FELICIANO, J.

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FELICIANO, J.:

In its Report and Recommendations dated 7 May 1993, the Ad Hoc Committee created under Administrative Order No. 11--93 of the Chief Justice, recommended, in connection with (a) "People v. Yip Kam Shing and Muy Wai Cheung," Criminal Case No. 91-5718, RTC, Makati, Branch 143, presided over by Judge Silverio S. Tayao; and (b) "Anita N. Ty v. Heirs of Emilia Olaquivel," Civil Case No. 88-2237, RTC, Makati, Branch 143, that Judge Tayao be asked to give "his side" as soon as he has recovered. The Ad Hoc Committee had invited Judge Tayao twice to appear before it for some clarificatory questions, but since he was ill and "in a state of shock," the Committee had to forego the interview.

I

The Ad Hoc Committee had referred to the "Laciste Report" which alleged that Judge Tayao had granted bail to the accused in Criminal Case No. 91-5718. The accused in that case were charged with violation of Section 21, Article 3 of R.A. No. 6425 which is a non-bailable offense if evidence of guilt is strong.

The so called "Laciste Report" dated 30 July 1992, was prepared by Federico Laciste, Jr., Chief Inspector, PNP, Narcotics Branch and submitted to Vice-President Joseph Estrada, Chairman, Presidential Anti-Crime Commission. The Laciste Report alleged:

"Five (5) kilos of high grade methamphetamine hydrochloride 'SHABU' were seized from the subject during a buy-bust operation conducted by elements of RPIU. With the volume of the illegal drug seized from the accused it was unthinkable that he would be granted bail. Yip Kam Shing eventually jumped bail and has long ignored attending court hearings. ***." (As quoted from the Report and Recommendations of the Ad Hoc Committee, p. 6)

The matter was referred to the Office of the Court Administrator (OCA) for follow-up and implementation.

The OCA recommended that Judge Tayao be directed to file a comment on the matter within ten (10) days from notice. On 11 November 1993, the OCA, in another Memorandum to the Chief Justice, advised that Judge Tayao had tendered his resignation effective 16 August 1993 and in view thereof, recommended that the matter be considered "closed and terminated." Implicitly, the OCA also recommended that the resignation of Judge Tayao be accepted.

The Court was informed, through the Court Administrator, by the wife of Judge Tayao, that Judge Tayao had undergone electric shock therapy, remained ill, in a state of nervous exhaustion and unable to submit a comment on the statements made in the "Laciste Report." In view thereof, the Court decided to examine the record for itself in order to reach a just and expeditious resolution of the matter.

The underlying facts, as gleaned from the record, are as follows:

On 14 August 1991, the Regional Police Intelligence Units (RPIU) conducted a "buy-bust" operation. According to S/Sgt. Dacayanan, chief witness of the prosecution, he had handed to a certain Michael Yip bundles of paper cut to the size of peso bills with genuine P500.00 and P100 bills on each side of the paper bundles, the said bundles purporting to amount to P1,250,000.00, in exchange for five (5) kilograms of hydrochloride methamphetamine or "shabu." In the course of the alleged buy-bust operation, Michael Yip and two (2) other persons who were said to be passengers in the same car that Michael Yip was riding, were arrested. The two (2) other passengers were a certain Muy (or Huy) Way Cheung and one Mila Julian. An information charging Michael Yip and Muy Way Cheung with illegal sale of shabu, was filed before the RTC of Makati on 22 August 1991. No information was filed against Mila Julian; neither was she identified as a witness whether for the prosecution or for the defense. The criminal case against Michael Yip and Muy Way Cheung, docketed as Criminal Case No. 91-5718, was in due course assigned to Judge Silverio S. Tayao.

On 11 September 1991, the accused Yip and Cheung, through counsel, filed an "Urgent Motion for Bail" upon the ground that the prosecution's evidence of their guilt was not strong. Judge Tayao, in an Order dated 12 September 1991, set the Motion for Bail for hearing on 26 September 1991. In his Order, Judge Tayao directed the prosecution to present evidence for the purpose of provisionally determining the strength or weakness of the evidence against the accused. The Motion for Bail was heard in due course and Judge Tayao ordered the prosecution and the defense to submit their respective memoranda on the matter of bail.

The defense submitted on 19 February 1992, its "Memorandum for Granting Bail to Accused." The prosecution, in turn, filed on 27 February 1992, a "Summation (Petition for Bail Incident)" where it listed and summarized the testimonial evidence, "autoptic" evidence and documentary evidence which the prosecution had submitted during the hearings on the application for bail.

On 30 March 1992, Judge Tayao issued an Order fixing bail for the provisional liberty of the accused subject to certain conditions. The dispositive portion of this Order read as follows:

"WHEREFORE, the Court hereby fixes the bail for the provisional liberty of the herein accused in the amount of P300,000.00, Philippine currency, each, to be posted IN CASH, considering the quantity of the regulated drug involved (5 kilos 'shabu') and considering further that both accused are initially determined to be foreign nationals, conditioned as follows:

- Prior to his release, accused Mui Wai Cheung is directed to surrender his passport to the Court;
- Both accused are prohibited from leaving the Philippines pending final determination of this case and Criminal Case No. 91-5718;
- They are prohibited to travel outside Metro Manila for a period of more than 24 hours without prior approval of the Court; and
- To report to the Court once a week to commence on a Friday of the week they are released and every Friday thereafter.

Both accused are warned that violation of any of the foregoing conditions will result [in] the forfeiture of their respective cashbonds and warrants for their arrest shall be issued forthwith.

Further, for the purpose of paragraph 2 hereof, the Commissioner of the Bureau of Immigration and Deportation is hereby directed to issue a hold departure order against both accused." (Order, dated 30 March 1992, of Judge Tayao, p. 6)

On the same day, i.e., on 30 March 1992, the two (2) accused posted cash bailbonds in the following amounts: in the case of Michael Yip -- P500,000.00; and in the case of Muy Way Cheung, P300,000.00. Michael Yip also executed on the same day an affidavit stating that he could not comply with the condition relating to submission of his passport, for the reason that his passport had been lost, which loss had been reported to the Bureau of Immigration and Deportation, and binding himself to document the same loss on or before April 1992 upon reporting to the court. Michael Yip executed, on the same day, a sworn undertaking that if he failed to appear for trial, despite due notice to him or to his counsel, his absence would be deemed an express waiver of his presence during such trial and that he would at all times be amenable to the processes of the court and surrender himself to the court for execution of judgment or should he fail to comply with the conditions of his provisional release. A similar affidavit was executed by Muy Way Cheung. Thereupon, Judge Tayao issued on 30 March 1992 an Order directing the provisional release of the accused.

On 31 March 1992, the prosecution filed an "Urgent Ex-Parte Motion for Reconsideration" of Judge Tayao's Order of 30 March 1992. In this Motion, Trial Prosecutor Apolinario D. Bruselas, Jr. claimed that Judge Tayao had not only committed "errors of fact" but had also committed an "irregularity." The "irregularity" attributed to Judge Tayao by Prosecutor Bruselas consisted of Judge Tayao's specifying that bail be posted in cash. Bruselas contended that this specification of a cash bond was "actually designed to favor and hasten the release of both accused." The argument presented by Bruselas was as follows:

"x x x Reason: No reputable Insurance or Bonding Company will easily accept both accused considering the risks entailed (both are foreign nationals; accused in at least a 5-kilo drug case; no significant local holdings, etc.). Thus, if the purpose was to make bail inaccessible to both accused (as apparent from the imposition of quite a stiff sum), the requirement should have been the other way around. Certainly, not to specify that bail be posted in cash."

The Trial Prosecutor also complained that he was furnished a copy of Judge Tayao's Order "only by chance" when he happened to pass by the court at 3:30 p.m. on the same day that Judge Tayao's Order was issued, i.e., 30 March 1992.

The Trial Prosecutor's Motion for Reconsideration was heard on 3 April 1992. The accused did not appear before the court, neither were they represented. Judge Tayao issued an Order declaring that the Motion was deemed submitted for resolution.

Before the Motion for Reconsideration could be resolved by Judge Tayao, the accused failed to comply with the conditions of the Order granting bail. Accordingly, Judge Tayao, in an Order dated 6 April 1992, declared the cash bonds posted by the accused forfeited in favor of the government and ordered the issuance of warrants for the arrest of the accused. The Judge resolved to proceed with the trial on the merits as previously scheduled and ordered the prosecution to adduce further evidence.

Approximately one (1) year later, on 4 April 1993, Michael Yip and Muy Way Cheung were arrested near a restaurant along Roxas Blvd., corner MIA Road, Paranaque, Metro Manila.

The Court has carefully considered the record of this case which has been submitted to the Court, which record ends with an Order dated 13 July 1993 issued by Judge Tayao recording that "the accused submitted their Comments/ Objections to the Formal Offer of Evidence of prosecution," and allowing the defense to engage the services of an interpreter at their own expense and setting further hearing dates for these cases.

The Court considers that, from the record of this case, there is no basis for the charge or insinuation of "irregularity" on the part of Judge Silverio S. Tayao.

In the first place, the well-settled rule is that the determination of whether or not the evidence of guilt is strong for purposes of resolving an application for bail of a person accused of a "non-bailable" offense, is a matter of judicial discretion.^[1] By its nature, judicial discretion involves the exercise of judgment on the part of the judge. The judge must be allowed a reasonable latitude for the operation of his own individual view of the case, his appreciation of the facts, and his understanding of the applicable law on the matter. Judicial discretion is, of course, not unlimited; it must be guided and controlled by well-known rules and principles. We observe in this connection that the judge's discretion to grant or withhold bail was exercised only after hearing and after consideration of the evidence and the parties' memoranda submitted to the court. No procedural requirements were violated by Judge Tayao. To the contrary, the record shows that Judge Tayao afforded the prosecution ample opportunity to present all the evidence it had and the prosecution did not suggest (whatever else it suggested) that it had been deprived of its right to present evidence against the accused.

In the matter of bail, the record yields no indication of any grave abuse of discretion on the part of Judge Tayao. There is similarly no indication of any lack of good faith or any corrupt motive or reprehensible purpose which might have moved him in rendering the order that he issued.

There is no necessary logical relation between the volume of drugs seized and the accused's guilt or innocence. For the accused must be related in a reasonable manner to the drugs seized, whatever their volume or quantity.

We do not find any inexplicable grave error on the face of the assailed Order of Judge Tayao. What is apparent from that Order is that after listing and examining the items of evidence submitted by the prosecution, the Judge found that he had in his mind substantial doubts relating to the guilt of the accused. Judge Tayao noted that S/Sgt. Dacayanan on direct examination stated that Michael Yip, inside his car, "inspected the money" alleged to amount to P1,250,000.00 (not all of which was "real" money), then closed the plastic bag and placed the same in the baggage compartment of his car. On cross examination, S/Sgt. Dacayanan stated that Michael Yip did not count the money but "just felt it," i.e., that Michael Yip "just opened [the plastic bag] and felt it [the money]," then closed the bag. Judge Tayao quoted from the testimony of Sgt. Dacayanan as follows:

"Q.

What was he doing inside his car -- this Michael?

A.

He inspected the money.

Q.

And after Michael inspected the money what happened next?

A.

He close the plastic bag sir and returned to his car.

Q.

Thereafter, after Michael return to his car what next took place?

A.

He put the plastic bag containing the marked money, sir.

Q.

And where did he put this plastic bag containing the marked money?

A.

In his car, sir . . . in the baggage compartment of his car.

Q.

How much was supposed to be the money in that plastic bag?

A.

P1,250,000.00, sir.

Q.

Were these all real money, Mr. Witness?

A.

No, sir.

Q.

Some were real some were not?

A.

Yes, sir. (TSN, pp. 23-24, Oct. 15, 1991.)

On cross-examination, Ssg. Dacayanan further testified, as follows:

ATTY. TORRES:

What did you say to him after presenting the money?

WITNESS:

He accepted the money.

ATTY. TORRES:

Did he count?

WITNESS:

No, sir, just felt it (TSN, p. 54, Nov. 5, 1991)

ATTY. TORRES:

After that what happened?

WITNESS:

I opened the big box and noticed that there were 5 small boxes inside it. I opened one of the small boxes and I noticed that there was inside it crystalline substance which was wrapped inside transparent plastic." (TSN, p. 57, Nov. 5, 1991).

x x x x x x x x

ATTY. BAGALIHOG:

How much was supposed to be the amount contained in that bag?

WITNESS:

P1,250,000.00.

ATTY. BAGALIHOG:

And the accused did not even bother to count how many bundles were inside the plastic bag?

WITNESS:

He just opened and felt it.

ATTY. BAGALIHOG:

And the accused was not even surprised why the bag contained only a few bundles of money when the supposed amount contained therein was P1,250,000.00?

WITNESS:

No, sir. (TSN, pp. 72-73, Nov. 5, 1991)"

Judge Tayao then proceeded to say that:

"The bundles of marked money allegedly used in the buy-bust operation, as presented in Court, are covered on both sides of each bundle by genuine P500.00 and P100.00 bills. The rest are all ordinary pieces of paper, some of which are not even evenly cut to the size of the genuine bills.

If accused Yip Kam Shing inspected the marked 'money', he would have readily seen that the inserted pieces are ordinary paper cut to the size of the peso bill, as the Court had observed when the 'money' was presented in Court and marked in evidence.

On the other hand, to assume that the same accused merely 'felt it' is too incredible to believe. It does not conform to ordinary normal human behavior. If SSg. Recto E. Dacayanan took from the big box one of the smaller boxes and opened it to determine that what appears to be methamphetamine hydrochloride or 'shabu' is contained therein, accused Yip is expected to do no less. In fact, considering the nature of the transaction wherein he is supposed to be engaged in the sale of illicit drugs involving a very substantial amount of money and with a person (Dacayanan) whom he cannot expect to see again, ordinary prudence dictates that he should have taken out of the plastic bag, at least, one bundle to determine its genuineness and cursorily examine the other contents thereof to fine out whether the bundles therein would amount, more or less, P1,250,000.00." (Underscoring supplied)

The second aspect of the case that Judge Tayao found perplexing was the "unexplained exclusion" of Mila Julian, female companion of the two (2) accused. Judge Tayao said:

"Equally perplexing is the unexplained exclusion of the female companion of both accused who has been identified as Mila Julian. The evidence discloses that her participation in the buy-bust operation was the same as that of accused Mui Wai Cheung. Both of them were allegedly seated inside the car during the whole period of operation -- accused Mui Wai Cheung was seated at the back seat while Mila Julian was seated at the front beside the driver's seat: Yet, while accused Mui Wai Cheung was included in the Information of the present offense, the female companion was mysteriously excluded without any explanation." (Underscoring supplied)

Evidently, in his Order, Judge Tayao sought to articulate the doubts which beset him, and the bases of such doubts. We are unable to regard those bases as so obviously unreasonable, whimsical or capricious as to be merely arbitrary or as indicative of bad faith or malice.

So far as the record shows, the criminal cases are still on-going. Even if the trial court ultimately finds the two (2) accused guilty beyond reasonable doubt of the offense charged, and even if an appellate court affirms a judgment of conviction, those circumstances alone would not show that Judge Tayao was guilty of a grave abuse of discretion or of grave misconduct nor even of gross negligence in the performance of his duties. For the Order of 30 March 1992 of Judge Tayao must be evaluated in terms of the facts as they appeared to him at that particular time and place, not on the basis of facts made subsequently available, i.e., the fact that the two (2) accused subsequently jumped bail and had to be re-arrested.

Moreover, we consider that Judge Tayao was acting within the bounds of law when he required that the bailbond be posted in cash rather than in a form of a surety bond issued by some insurance or surety company. The Rules of Court leave to the discretion of the trial judge the question of whether bail should be posted in the form of a corporate surety bond or property bond or a cash deposit or a personal recognizance. The logic of Prosecutor Bruselas' argument is difficult to appreciate. He appears to speculate that it is easier to post P300,000.00 in cash than to pay a small premium for a surety bond (a speculation not borne out in ordinary experience) and that no "reputable" bonding company would "easily accept" the accused's application for a surety bond.

The Court also observes that Judge Tayao required the posting of a very significant amount of bail -- P300,000.00 for each accused -- and also imposed stringent conditions upon the accused, requiring them to report to the court once a week and directed the Bureau of Immigration and Deportation to issue a hold departure order against them. In other words, the Judge sought to provide, as best as he could, against the contingency of the accused jumping bail and leaving the country. As noted earlier, the accused were in fact re-arrested in Paranaque, a year later.

If Judge Tayao committed any error at all, it was an error of judgment and it is important to recall the firmly established principle that a judge may not be administratively charged for mere errors of judgment, in the absence of a showing of any bad faith, malice or corrupt purpose:

"A judge cannot be held to account or answer, criminally, civilly, or administratively, for an erroneous decision rendered by him in good faith." (In re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, 173 SCRA 719 [1989]).

"As a matter of public policy, in the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous." (Revita vs. Rimando, 98 SCRA 619 [1980]; Ubongon vs. Mayo, 99 SCRA 30 [1980]; Ramirez vs. Corpuz-Macandog, 144 SCRA 462 [1986]; Abad vs. Bleza, 145 SCRA 1 [1986]; Heirs of Julio Rosas vs. Reyes, 188 SCRA 236 [1990]; Pilipinas Bank vs. Tirona-Liwag, 190 SCRA 834 [1990])

"Mere errors in the appreciation of such evidence, unless so gross and patent as to produce an inference of ignorance or bad faith, or that the Judge knowingly rendered an unjust decision, are irrelevant and immaterial in an administrative proceeding against him. No one, called upon to try facts or interpret the law in the process of administering justice, can be infallible in his judgment. All that is expected of him is that he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues presented, and on the basis of the conclusions he finds established, with only his conscience and knowledge of the law to guide him, adjudicate the case accordingly." (Vda. de Zabala vs. Pamaran, 39 SCRA 430 [1971])

Recapitulating, the record reveals no prima facie basis for charging Judge Tayao with misconduct in office or other administrative offense. Accordingly, we do not believe that he should be held accountable for his Order dated 30 March 1992, which on its face, was valid and lawful. Neither Chief Inspector Laciste nor Trial Prosecutor Bruselas attempted to show any improper or evil motive on the part of Judge Tayao in issuing his mentioned Order in Criminal Case No. 91-5718.

II.

The Ad Hoc Committee had also referred in its Report and Recommendations to a written complaint, dated 16 February 1993, of "partiality and bias" against Judge Tayao with respect to the case of "Anita N. Ty v. Heirs of Emilia Olaquivel," Civil Case No. 88-2237, RTC, Makati, Branch 143.

The written complaint of 16 February 1993 had been filed by Ms. Gloria Morada with the Chief Justice on 24 February 1993. This matter was captioned -- Administrative Matter No. RTJ-93-978 ("Gloria Morada v. Judge Silverio S. Tayao, RTC, Branch 143, Makati, Metro Manila") -- and by a Resolution dated 31 May 1993, the Court required complainant Gloria Morada to file a duly sworn administrative complaint and to serve the same upon Judge Tayao; and required the latter to comment on the complaint. Judge Tayao asked from this Court an extension of twenty (20) days within which to file his comment; this request was granted.

Administrative Matter No. RTJ-93-978 has been consolidated by the Court with Administrative Matter No. 93--8-1204-RTC and the two (2) should be resolved together.

On 14 July 1993, Ms. Gloria Morada filed a sworn version of her original complaint. In this complaint, she charged Judge Tayao with "partiality and bias and brazen disregard of the facts and the laws." This charge was made in connection with, as earlier noted, Civil Case No. 88--2237, an action for specific performance to enforce an oral contract of lease, with prayer for a preliminary mandatory injunction. After trial, Judge Tayao rendered on 10 December 1992 a decision, the dispositive part of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

- Ordering the aforementioned defendants to comply with the verbal contract of lease with the plaintiff;
- Ordering the said defendants to make necessary repairs on the leased premises in order to make it suitable for its intended use as a maternity clinic and hospital;
- Ordering the plaintiff to pay the defendants the withheld rentals at the reduced amount of P15,000.00 a month from January 1988 and every succeeding months thereafter, payable immediately after the necessary repairs have been completed;
- Ordering the same defendants to pay plaintiff the sum of P30,000.00 for and as attorney's fees; and to pay the costs of suit.

The defendants' counterclaim is hereby DISMISSED.

Similarly, the case is DISMISSED insofar as defendant Sheriff Lorenzo Lim, Jr. is concerned for the reason as hereinabove stated.

SO ORDERED."[2]

The antecedent facts of this case are as follows.

The predecessor-in-interest of the defendant heirs was the deceased Emilia Olaquivel, who was the owner of a parcel of land together with the building thereon situated in the corner of San Marcelino and Oregon (now Apacible) Streets, Manila. This property was leased to the A.N. Ty Clinic, Inc., a maternity clinic and hospital, under a contract of lease executed on 29 August 1969 by one Julita Olaquivel.

On 25 August 1981, an attorney for Emilia Olaquivel demanded that the Clinic vacate the leased premises and pay a new monthly rate of P30,000.00 commencing from May 1981 up to the time of departure from the premises, by reason of expiration of the lease and the desire of Emilia Olaquivel to use the premises herself. Because the Clinic did not comply with this demand, Emilia Olaquivel filed an ejectment suit against it with the Municipal

Trial Court ("MTC"). The MTC rendered a decision on 5 July 1984 requiring the Clinic to vacate the leased premises and to pay the sum of P142,504.50 representing accrued reasonable rentals as of 31 October 1981, plus P30,000.00 a month beginning November 1981 until the premises are actually vacated.

The Clinic appealed the decision of the MTC all the way to the Supreme Court; the decision of the MTC was ultimately affirmed by the Supreme Court. A writ of execution was issued, but the same was not enforced by reason of negotiations for settlement between the parties. As a result, the Clinic paid the amount of P400,000.00 in accrued rentals as partial satisfaction of the judgment.

The plaintiff Anita Ty paid the monthly rentals of P30,000.00 from July 1987 up to January 1988. On 21 January 1988, Anita Ty wrote to the defendants informing them that the leased premises were in a sad state and requesting them to make the necessary repairs. The repairs were not made and Anita Ty stopped the rental payments after January 1988 and instituted the action captioned as Civil Case No. 88--2237.

Judge Tayao defined the principal issue confronting him in this case as: "Whether or not the plaintiff (Anita N. Ty) and defendants (Sps. Pedro and Emilia Morada) entered into a verbal lease contract over the premises in litigation for a period of 20 years from July 30, 1987, renewable for a period of 10 years thereafter." After considering the testimony of both parties and their respective witnesses, as well as documentary materials submitted to the court, Judge Tayao concluded that the evidence submitted by the plaintiff had sufficiently shown the existence of a verbal lease agreement between the parties.

Judge Tayao was quite aware of the Statute of Frauds. He ruled that Article 1403, Civil Code, providing that a verbal lease contract for a period longer than one (1) year is unenforceable, unless ratified, was here applicable considering that the defendant lessors had accepted rental payments for the period July to December 1987 and January 1988 and had benefitted from the repairs or improvements introduced by the plaintiff in the leased premises. Judge Tayao relied on, among other things, the case of *Asia Production Company Inc. v. Hon. Ernani Cruz Paño*[3] holding that partial execution or performance of a contract is enough to bar the application of the Statute of Frauds.

Judge Tayao conducted an ocular inspection of the lease premises and observed the deteriorating condition of the building used as a maternity clinic and hospital. Noting that about half of the premises were rendered non-usable by the Clinic, he reduced the amount of rentals due from P30,000.00 to P15,000.00 a month until the necessary repairs are introduced and completed.

Complainant Morada attacks the finding of Judge Tayao that a 20-year lease agreement had been verbally entered into, as well as the reduction of the monthly rental from P30,000.00 to P15,000.00, claiming that these findings constituted an "obvious display of partiality and bias and the brazen disregard of the facts and laws" on the part of Judge Tayao.

We note that the complainant Gloria Morada has appealed the decision of Judge Tayao to the Court of Appeals and that that appeal remains pending there, so far as the record before us shows.

In cases of this kind -- that is, where the administrative complaint relates to a judicial decision rendered by a respondent judge, which decision remains pending on appeal -- this Court ordinarily holds such complaint and further proceedings thereon in abeyance until a decision has been rendered by the appellate court and reached finality. Upon the one hand, an administrative complaint against the judge is not an appropriate substitute for an appeal. Upon the other hand, the judgment of the appellate court could be indicative of the merit or lack of merit of the complaint.

In the instant case, however, the Court considers that insofar only as the disposition of the administrative

complaint is concerned, there is no need to await the outcome of complainant's appeal before the Court of Appeals. As earlier noted, Judge Tayao has submitted his letter of resignation. The decision dated 10 December 1992 rendered by Judge Tayao in Civil Case No. 88-2237 (the only evidence submitted by complainant to this Court) does not on its face constitute prima facie evidence of bad faith, partiality and bias against complainant Gloria Morada on the part of Judge Tayao. Even if the Court of Appeals eventually reverses the decision of Judge Tayao as erroneous legally, that by itself is not constitutive of a prima facie case against Judge Tayao. The controlling caselaw has been collected above.

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ACCORDINGLY, the Court Resolved to ACCEPT, in line with the recommendation of the Office of the Court Administrator, the resignation of Judge Silverio S. Tayao and to CONSIDER both Administrative Matter No. 93-8-1204-RTC and Administrative Matter No. RTJ-93-978 as closed and terminated.

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

[1] *People v. Raba*, 103 Phil. 384 (1958); *Ocampo v. Bernabe*, 77 Phil. 55 (1946). See also *People v. San Diego*, 26 SCRA 522 (1968); *Mendoza v. Court of First Instance of Quezon*, 51 SCRA 369 (1973); *People v. Sola*, 103 SCRA 393 (1981).

[2] Trial Court Decision (A.M. No. RTJ-93-978), pp. 7-8.

[3] 205 SCRA 458 (1992).

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