

JOEL GARGANERA, COMPLAINANT, VS. JUDGE ENRIQUE JOCSON, RESPONDENT.*A.M. No. RTJ-88-227. September 01, 1992*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aaa6356b0145/>**PER CURIAM:**

All the above entitled cases were consolidated and originally assigned for investigation to Associate Justice Felipe B. Kalalo, Court of Appeals. They were, however, subsequently re-assigned to Associate Justice Vicente V. Mendoza, also of the Court of Appeals, on July 21, 1990 in anticipation of Justice Kalalo's compulsory retirement shortly to take place.[1]

After issues were duly joined upon the filing of the comment or answer of the respondents in each of the cases, and such other pleadings as were required or admitted by the Court, the parties presented their respective proofs. Reception of evidence in all the cases, except A.M. No. RTJ--90-624, was delegated to and done before Regional Trial Court Judge Jesus V. Ramos, Branch 45, Bacolod City; this, on request of some of the complainants, to save the parties the time and expense of having to come to Manila.

The hearings have since been completed and Mr. Justice Mendoza has since submitted his "Report and Recommendation," in two parts: the first, on August 7, 1992; the second, on August 20, 1992. His findings and conclusions are hereunder summarized.

A.M. No. RTJ-88-227

1. In A.M. No. RTJ-88-227 (Joel Garganera v. Judge Jocson), the respondent Judge is charged with gross ignorance of the law, incompetence, and inefficiency in the performance of official duties in relation to Civil Case No. 4086 entitled "Sally Garganera v. Spouses Jose and Salvacion Garganera," in certain special proceedings, and in Criminal Case No. 292 entitled "People v. Alan Labayen." The evidence justifies the following conclusions, to wit:

a. In Civil Case No. 4086, respondent Judge Jocson declared defendant spouses in default despite knowledge that they had filed an answer within the reglementary period, and had adamantly refused to reconsider that default declaration despite the facts having again been forcefully brought to his attention. These irregular acts constitute partiality to a party, rather than mere ignorance of the law.

b. "On June 30, 1987 he (the respondent Judge) issued an order ** in a cadastral case, directing the Register of Deeds of Silay City to register and annotate on TCT Nos. T-7444 and T-7445, covering ** (five [5] lots) all of the Silay Cadastre, certain deeds of sale, even though the lots were outside his territorial area. * * In another order dated February 4, 1988 ** respondent judge again directed the Register of Deeds to register and annotate a deed of sale and power of attorney on the same titles pertaining to the same lots. * * * (R)espondent judge crossed jurisdictional boundaries ** a third time when in Special Proceedings No. 435 he again issued an order dated June 20, 1988 ** directing the Register of Deeds of Silay City to change and substitute the name of the deceased Isidro Lopez in several TCT's with the names of his legal heirs. The case had been decided by Branch 40 at Silay City and had been terminated, so that the order issued by respondent judge was not only issued outside his territory but concerned a case previously decided by another branch of the RTC. * * ."

“The actuations of respondent judge constitute gross misconduct.”

c. In a rape case, Criminal Case No. 292, *People v. Alan Labayen*, respondent judge rendered judgment finding the accused guilty and sentenced him to 4 years, 2 months and 1 day to 6 years, 1 month and 10 days of imprisonment, after appreciating as mitigating circumstances, the following:

“(1) youthfulness;

(2) lack of intent to commit so grave a wrong;

(3) overly liberal parental direction;

(4) low degree of comprehension of his social responsibility; and

(5) that the victim being left alone most of the time by her mother by reason of work.”

The penalty imposed by Judge Jocson is “contrary to art. 63, par. 1 of the Revised Penal Code which provides that where a single indivisible penalty is prescribed, it shall be applied regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed * * .”

Moreover, “respondent judge considered certain circumstances as mitigating even if they are not so under art. 13 ** (e.g.,) ‘(1) youthfulness (sic); (2) overly liberal parental direction and (3) victim being left alone most of the time by her mother by reason of work.’ These circumstances are not even analogous or similar in nature to those considered in pars. 1 to 9 of art. 13 of the Revised Penal Code as mitigating circumstances. Neither can ‘the circumstances of low degree of comprehension of social responsibilities’ be appreciated as mitigating because the law is clear that the alternative circumstances of degree of instruction and education are not mitigating in crimes against chastity like rape (*People v. Lopez*, 107 Phil. 1039 [1960]; *United States v. Gamilla*, 39 Phil. 234).

Again, as pointed out by the Court of Appeals which reversed respondent judge’s decision, said “decision of conviction appealed from, a three page, double-spaced judgment, contains no statement of fact and the law on this it is based ** (and) the decretal portion is flawed, to say the least, as it imposes upon the accused a very ambiguous sentence.”

Upon the foregoing facts, the respondent judge is “guilty of partiality in the decision of a case, gross misconduct, and gross ignorance of the law * * .”

A.M. No. RTJ-90-624

2. The next administrative case against Judge Jocson, A.M. No. RTJ-90-624, was initiated by a complaint filed by Atty. Alejandro M. Mejorada, Jr. in relation to acts done in Special Proceeding No. 4236, “Intestate Estate of the late Auxillador Regalado; Manuel Regalado as Judicial Administrator.”

In this special proceeding, respondent judge rendered three orders (dated February 21, 1990, March 2, 1990 and March 7, 1990) requiring the release of the balance of P300,000.00 of a sugar crop loan granted by the Philippine National Bank (PNB) to the estate of Auxillador Regalado (for the year, 1989-1990). These orders were however annulled by the Court of Appeals on PNB’s petition for certiorari, which ruled that the judge had acted with grave abuse of discretion in issuing the challenged orders without first conducting a hearing on the merits of the motion for the release of the balance of the crop loans.

On the same day that the PNB filed its petition for certiorari with the Court of Appeals, March 9, 1990, respondent judge ordered the arrest and detention of two officials of the bank as well as of its counsel, Atty. Alejandro M. Mejorada, Jr. The stated reason was that they were defying his orders for the immediate release of the crop loans. Only Atty. Mejorada was arrested. He was taken into custody at 10:15 in the morning of March 9,

1990, and was not released until 6:30 P.M. of the same day.

Now, the records show that in no less than two motions filed by Atty. Mejorada for the lifting of the respondent's three (3) orders for release of the balance of the crop loans, said counsel had fully set out reasons for the Bank's inability to effect the release -- the (borrower) estate had not complied with the conditions of the Credit Agreement and the loan policy -- which reasons the Court of Appeals had subsequently ruled to be justified. Moreover, respondent judge knew that Atty. Mejorada, being merely the legal officer of the PNB Branch at Bacolod, had no authority to cause release of the balance of the crop loan. Finally, even assuming fault on Atty. Mejorada's part, he is liable not for direct contempt, which is summarily punishable, but for constructive contempt, which requires notice and hearing before the imposition of any sanction. Atty. Mejorada was accorded no such prior notice and hearing before his arrest and detention for a few hours were commanded and effected.

These facts establish respondent judge's gross misconduct.

A.M. No. RTJ-88-270

3. In the third administrative case, A.M. No. RTJ-88-270, commenced on complaint of Harding P. Velez, respondent judge is charged with knowingly rendering an unjust judgment and violation of the Anti-Graft and Corrupt Practices Act in relation to two criminal actions against Timmy Estrera y Pabon arising from the fatal shooting of Joseph Irving Velez: one (Case No. 305) for murder, and the other (Case No. 5343), for illegal possession of firearms. Respondent judge acquitted Timmy Estrera of the crime of illegal possession of firearms for lack of evidence, and in the murder case, convicted him of the lesser offense of homicide thru simple negligence.

Harding P. Velez, the victim's father, claims he was shown by respondent's Court Interpreter, John Barredo, two (2) decisions: one, sentencing Estrera to life imprisonment, and another, sentencing him to imprisonment of from 6 to 8 years, although neither decision was ever released, that eventually promulgated being, as aforesaid, the judgment convicting Estrera of homicide thru simple negligence. Harding P. Velez strongly insinuates that these acts, and recorded postponements of the promulgation of judgment, were done by the judge in the process of negotiating with the family of the accused Estrera for a satisfactory consideration for a light sentence in the murder case, and for acquittal in the illegal possession case.

While admitting that he indeed drew up the first two (2) decisions, respondent asserts that those decisions were sham, and he had prepared them only to entrap his interpreter John Barredo whom he suspected of "leaking" decisions to litigants for a fee. In fact, the judge filed an administrative case against Barredo -- A.M. No. P-87-124 (Judge Jocson v. John Barredo), which he however later withdrew "on the ground that he had lost interest in the case and for humanitarian reasons." The judge also admits that he had really postponed the promulgation of judgment twice, but alleges that he had had done so on meritorious grounds.

The evidence does not satisfactorily establish Harding P. Velez's accusations of venality on the judge's part, or that the latter had knowingly rendered an unjust judgment, "in the sense that it is contrary to law or the evidence, and ** made with conscious and deliberate intent to do an injustice or ** inspired by some corrupt motive or reprehensible purpose to set those who are guilty free."

Nonetheless, respondent judge acted irregularly in "leaking a decision, although it was sham and ** failing to pursue the administrative complaint he had filed against his court employee by withdrawing the complaint." Court orders and "processes should never be trifled with, lest their integrity is impaired." And if, as respondent judge said in his administrative complaint against John Barredo, the latter was guilty of malfeasance and misfeasance -- i.e., dishonesty, serious misconduct, receiving money by leaking information concerning pending cases, habitual

drunkenness, inefficiency, immorality, and incompetence/ -- “the withdrawal of complaint against Barredo was nothing less than toleration by the judge of official wrong doing.”

A.M. No. P-87-124

4. Notwithstanding the respondent judge’s withdrawal of his complaint in A.M. No. P-87-124 (Hon. Enrique T. Jocson v. John Barredo), *supra*, investigation of Barredo’s alleged misconduct, therein involved, should be pursued.

A.M. No. RTJ-88-269

5. In his complaint in A.M. No. RTJ-88-269, Berito C. Jalandoon, Sr. inter alia charges that respondent judge: (a) is a homosexual; (b) had bribed employees in his staff, including John Barredo, to cause them to execute certain papers in connection with the administrative case against Barredo (just mentioned) and a criminal case brought against him (the judge) in the Office of the Ombudsman by Harding P. Velez; (c) had degraded himself by filing an administrative case against John Barredo when he could simply have dismissed him; (d) is a congenital liar; (e) had falsified official documents by signing Barredo’s daily time records for the time when he was accusing Barredo of tardiness and absenteeism.

While the complainant’s evidence fails in the main to prove the charges specified against the respondent judge, such facts as have thereby been adequately established nonetheless suffice to show the impropriety of the judge’s request to “his office staff to ‘note and confirm’ the contents of his pleading in a court case * * * ; (the signatures of the employees) were superfluous and only succeeded in degrading the position of respondent judge.” Also shown by said facts is the impropriety, already mentioned, of the judge’s forbearance to pursue his complaint against John Barredo for absenteeism, laziness and inefficiency.

A.M. No. RTJ-88-267

6. Gross ignorance of the law, incompetence, grave abuse of discretion and violation of the Code of Judicial Conduct are imputed to Judge Jocson in A.M. No. RTJ-88-267, begun by complaint of several individuals. The complaint sets forth fourteen (14) causes of action against respondent Judge. The fifth and fourteenth causes are the same as those in A.M. RTJ-88-270 (Velez v. Jocson) and A.M. No. RTJ-88-227 (Garganera v. Jocson), already dealt with, *supra*.

Re First and Ninth Causes of Action

In several cadastral cases, involving petitions for registration and annotations of encumbrances affecting titles to lands in Silay City and La Carlota City, in Negros Occidental, and for the issuance of owners’ duplicate certificates of title, the respondent judge -

a) acted on the petitions notwithstanding that except for two, the petitions had been submitted directly to the judge and not filed with the receiving section of the respondent’s court, had consequently not been entered in the docket book, had not been accompanied by payment of the requisite fees (subsequently and tardily required to be paid by the judge), and had not been raffled in accordance with normal procedure;

b) granted all the petitions and ordered the Registrars of Deeds to register and annotate the relevant transactions on the corresponding certificates of title “without the necessity of presenting the owner’s duplicate copies;”

c) acted on and granted the petitions notwithstanding that the lands involved lay outside his territorial jurisdiction as defined in Administrative Order No. 7, Series of 1983 of this Court in relation to Batas Pambansa Bilang 129; and

d) omitted to keep copies of the orders he issued and petitions he disposed of.

In refutation of the charges, respondent judge states that he found the petitions on his desk and assumed they had passed through official channels (although they bore none of the usual notations indicating this fact); he had acted for the parties' convenience, many of the petitioners being residents of Bacolod, and the location of the property being, after all, merely a matter of venue; that, anyway, the petitions involved "noncontentious" and voluntary transactions and no objections were thereafter voiced against the orders in question by any interested party; and other judges were doing the same things. These attempts to justify his acts are unavailing. They are unacceptable. They cannot alter the conclusion that the Judge has acted in violation of the law,[2] and applicable precedent[3] and rules.[4]

Re Second Cause of Action

In Criminal Cases Numbered 990 and 1160, entitled "People v. Jose Daquipil, et al.," respondent Judge is charged with having granted bail (pending appeal) to the accused despite the fact that he had convicted them of murder and sentenced each of them to reclusion perpetua, and despite the objection of Assistant Provincial Fiscal Bartolome Fañunal, who had precisely pointed out that the defendants were no longer entitled to bail in the premises.

The respondent's defense to this charge is that he reconsidered his order and directed arrest of Jose Daquipil on May 15, 1987 and Garet Daquipil on October 13, 1988. The defense is no defense at all, of course. There was no justification for the grant of bail on appeal in the first place. In so granting bail, he was either partial to the accused or grossly ignorant of the law.

Re Third Cause of Action

In Criminal Case No. 998 (People v. Bajar), respondent judge rendered judgment convicting the accused of homicide and sentencing him to suffer a prison term of 4 years, 2 months and 1 day to 6 years, and to indemnify the heirs of the deceased in the amount of P12,000.00. In favor of the accused the Judge appreciated the mitigating circumstances of: (a) lack of intention to commit so grave a wrong; (b) low degree of instruction (sic); and (c) voluntary surrender.

The decision does not state clearly and distinctly the facts on which it is based, as required by the Constitution and the Rules of Court. The judge considered that the accused had no intention to commit so grave a wrong despite the fact that the latter had inflicted several wounds on the victim sufficient to produce death. He considered lack of instruction as mitigating despite case law to the contrary. He considered that the accused had surrendered voluntarily when the evidence showed otherwise. He thus exhibited "gross ignorance of the law and settled principles, ** a shabby mental attitude toward the judicial function."

Re Fourth Cause of Action

The accusations as regards Civil Case No. 420 (Villarosa v. Lupo and San Miguel Corp.) have not been proven. The errors ascribed to the respondent do not "constitute grounds for disciplinary action but, if at all, only for appealing his decision. The fact is that his decision was not appealed. **."

Re Sixth Cause of Action

In this cause of action, the respondent is faulted with having issued two orders in a civil case: the first, dated August 25, 1987,[5] dismissing a petition for relief from judgment, and the second, dated October 16, 1987,[6] denying due course to the appeal taken from the dismissal of said petition for relief on the stated ground that the same was unappealable. The Court of Appeals later declared both orders null and void: the first, because issued

without prior hearing as required by Section 6, Rule 38 of the Rules of Court, and the second, because under Section 2, Rule 41, an order denying a petition for relief is appealable.

These acts betray respondent's gross ignorance of fundamental legal precepts, and his omission to apply himself diligently to the study of the law as enjoined by Canon 3, Rule 3.01 of the Code of Judicial Conduct.

Re Seventh Cause of Action

In Bar Matter No. 399, commenced by complaint filed by respondent judge against complainant Romeo B. Esuerte, it appears that both the latter and the judge had employed intemperate language against each other, not in keeping with the dignity of the legal profession.[7]

Re Eighth Cause of Action

In Civil Case No. 4364, *Ngo Chen v. Municipality of Manapla and Rodolfo Miraflores*, respondent Judge promulgated three (3) orders, viz.: (1) order of November 20, 1987, declaring the defendants in default and authorizing reception of evidence against them ex parte before the Officer-in-Charge of his branch (No. 47); (2) order of June 8, 1988, denying due course to defendant Municipality's notice of appeal; and (3) order of June 20, 1988, ranting execution despite the municipality's objection and filing by it of a petition for certiorari with the Court of Appeals. The orders were invalidated and set aside by the Court of Appeals because issued in violation of settled legal principles, and with grave abuse of discretion. Respondent judge's aforesaid orders constitute acts of oppression.

Re Tenth Cause of Action

The transcript of stenographic notes taken during the hearing on August 8, 1988 of Civil Case No. 1665, entitled *Pailano v. Pailano*, "cannot fail to impress anyone reading it that respondent judge (did) indeed browbeat the (plaintiff's) witness even as he practically monopolized the period of cross-examination, disregarding the admonition to members of the bench that undue interference, impatience or severe attitude towards the witnesses, who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the case or the ascertainment of the truth (*People v. Catindihan*, 97 SCRA 196 [1980]) ** (and that) a judge should exercise great care and patience in conducting a case and intervene only sparingly in the examination of witnesses. (*People v. Ibasan, Sr.*, 129 SCRA 695 [1985])."

Re Eleventh and Twelfth Causes of Action

In Special Proceeding No. 3832 (for the guardianship of *Celia Mapa Vda. de Feria*), it appears that respondent judge issued two (2) orders. One, dated September 9, 1987, directed complainant Jose Angodong, counsel for the guardian, to pay a fine of P300.00 for interchanging the name of the petitioner in the guardianship proceeding and that of the ward. The other, dated May 17, 1987, directed the judicial guardian to reimburse some expenses included in his statement of income and expenses. In Civil Case No. 4885, the judge issued an order annulling the winning bid in an extrajudicial foreclosure sale on motion of the provincial sheriff, without giving the winning bidder an opportunity to be heard.

The complainant's evidence anent these causes of action fails to disclose any misconduct on the respondent's part. The remedy against any errors in the orders is, of course, judicial rather than administrative.

Re Thirteenth Cause of Action.

In Civil Case No. 2567, *Barbasa v. Filinvest Finance and Leasing Corp., BPI Credit Corp. and the Provincial Sheriff of Negros Occidental*, respondent judge issued two orders directing execution of the decision against BPI-Bacolod Branch although the latter was, allegedly, not a party to the case. The proofs fail to reveal any clear

impropriety on the respondent's part, despite the fact that the orders were afterwards declared null and void by the Court of Appeals, since the nullification was "not for the reason that respondent judge had erred in addressing execution to a third party but because the case had already been appealed and respondent judge had lost jurisdiction over it."

7. A.M. No. RTJ-88-267

While the charges of corrupt practice, ignorance of the law, incompetence, bribery, arbitrariness, and conduct unbecoming a judge, levelled against respondent judge by Atty. Gregorio G. Tronco in this administrative case, have not been adequately established by the evidence, the record however shows still another infraction of the rules by respondent judge: he appointed a regular administrator of an intestate estate without the publication and hearing prescribed by law.

The Court has reviewed the record of these cases and has thereby satisfied itself that the findings and conclusions of the Investigator just outlined, are in truth adequately supported by the evidence and are in accord with applicable legal principles. Said findings and conclusions are therefore hereby adopted as the Court's own.

It was said findings and conclusions, already reached by the Investigator but still being set out and incorporated in his formal "Report and Recommendation," that were the basis for the Investigator's recommendation to the Court for respondent judge's suspension from office; and it was, in turn, on the basis of that recommendation, as well as of the many disturbing reports being received at the Office of the Court Administrator of other alleged acts of misconduct on His Honor's part, that caused this Court to issue on July 30, 1992 its Resolution placing respondent judge under preventive suspension.

What is exposed by the evidence adduced in these proceedings is the sad spectacle of a person presiding over a court of law, who is ignorant of fairly elementary and quite familiar legal principles and administrative regulations, has a marked penchant for applying unorthodox, even strange theories and concepts in the adjudication of controversies, exhibits indifference to, and even disdain for due process and the rule of law, applies the law whimsically, capriciously, and oppressively, and displays bias and partiality. These characteristics and quirks are impermissible in a judge. In *Cabrera v. Pajares*,^[8] this Court ruled that, as it has time and again stressed -

" * * members of the judiciary should display not only the highest integrity but must at all times conduct themselves in such a manner as to be beyond reproach and suspicion. (*Quiz vs. Castaño*, 107 SCRA 196; *Montemayor vs. Collado*, 107 SCRA 258) The Court had likewise stressed in *De la Paz vs. Inutan* (64 SCRA 540) that 'the judge is the visible representation of the law and, more importantly, of justice. From him, the people draw their will and awareness to obey the law. They see in him an intermediary of justice between two conflicting interests * * . Thus, for the judge to return that regard, he must be the first to abide by the law and weave an example for the others to follow. He should be studiously careful to avoid even the slightest infraction of the law.' (See also *Fonacier-Abaño vs. Ancheta*, 107 SCRA 538)."

And in *Office of the Court Administrator v. Bartolome*, 203 SCRA 337, this Court deemed it proper -

" * * to remind our brethren everywhere that judges are the epitome of moral rectitude in society -- even if nobody else is. Judges are not common men and women, whose errors men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed. As such, they bring stability to society, especially where society is under stress. They should prove that the system, after all, works even if the system has, after all, its built-in weaknesses."

The different acts of misconduct proven against respondent judge demonstrate his unfitness to remain in office

and to continue to discharge the functions and duties of a judge, and warrant the imposition on him of the extreme sanction of dismissal from the service.

WHEREFORE, the respondent, Judge Enrique T. Jocson, is hereby **DISMISSED FROM THE SERVICE**, with forfeiture of all retirement benefits and pay and with prejudice to reinstatement in any branch of the government or any of its agencies or instrumentalities.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, and Melo, JJ., concur.
Feliciano, J., on leave.

[1] Justice Kalalo retired on September 12, 1990

[2] B.P. Blg. 129, this Court's Interim Rules, P.D. No. 1529 (sec. 3),

[3] Manchester Development Corp. v. C.A., 149 SCRA 562 (1987); Sun Insurance Office Ltd. v. Asuncio, 170 SCRA 274 (1989)

[4] Supreme Court Administrative Order No. 7, Series of 1933, and Circular No. 7, Sept 23, 1974

[5] Exh. VI-D (reconsideration subsequently refused)

[6] Exh. VI-I (reconsideration also subsequently refused)

[7] The judge described the complainant's motion for inhibition as "utterly foolish," and that the complainant wished only "to get rid of the ** (respondent as Judge) for non-other purpose, an ill-motivated act;" and that the complainant was "imprudent" for filing pleadings "without the knowledge or consent of the trial fiscal, or if it is with implied consent of the fiscal then that fiscal must be a lazy or naive one."

[8] 142 SCRA 127, 135

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