

OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. HON. GENARO C. GINES, AS PRESIDING JUDGE, BRANCH 26; MA. GORGONIA L. FLORES, COURT INTERPRETER AND OFFICER-IN-CHARGE, BRANCH ...

A.M. No. RTJ-92-802. July 05, 1993

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PER CURIAM:

This case was initiated by the Office of the Court Administrator with the filing of an administrative complaint which reads:

"Pursuant to the Resolution of the Court En Banc, dated July 30, 1991, the undersigned hereby institutes this administrative complaint against Judge Genaro C. Gines, Presiding Judge, Branch 26; Ma. Gorgonia L. Flores, Court Interpreter and Officer-in-Charge, Branch 26; Rosie M. Munar, Stenographic Reporter, Branch 26; Pacita B. Diaz, Staff Assistant IV, Office of the Clerk of Court; Ma. Concepcion B. Diaz, Staff Assistant I, Branch 26; and Mr. Alfredo V. Lacsamana, Jr., Staff II, Branch 26, all of the RTC, San Fernando, La Union, for Dishonesty; Violation of par. (e), Sec. 3 of R.A. 3019 (Anti-Graft and Corrupt Practices Act) as amended; and Violation of Administrative Order No. 6, dated June 30, 1975, Circular No. 7, dated September 23, 1974, and Administrative Order No. 1, dated January 28, 1988, by virtue of their collective illegal acts involving deliberate and surreptitious assignment of cases at the Docketing and Receiving Section, Office of the Clerk of Court, RTC, San Fernando, La Union.

1. This complaint is substantially anchored on the Report submitted by Atty. Aurora P. Sanglay, Clerk of Court, RTC, San Fernando, La Union, relative to her investigation on the alleged anomaly in the non-raffling of cases in the said Court, and the Affidavit-complaint of Ma. Concepcion B. Diaz dated September 19, 1991, implicating other court personnel involved in the aforestated irregularity;

2. Atty. Sanglay, in her Report, averred that:

2.1 From April 3, 1989 to April, 1991, there were forty-four (44) Special Proceedings cases, twenty-seven (27) Land Registration cases, six (6) Civil Cases, and three (3) Criminal Cases which were directly assigned to the RTC, Branch 26, San Fernando, La Union, without passing through the mandatory raffling procedure of cases except for three (3) special proceedings cases which were assigned to Branch 27, which anomaly had been going on since 1986;

2.2 Pacita Diaz, Ma. Concepcion Diaz and Alfredo Lacsamana, Jr. were the court employees in-charge in (sic) the receiving and docketing of the Land Registration cases, Special Proceedings cases and Civil Cases, respectively; and

2.3 There is a probability that the aforesaid clerks, who were in-charge of receiving the cases, did not submit deliberately to the Officer-in-Charge some of the cases received for mandatory raffling in compliance with the Administrative Orders/ Circulars of the Supreme Court;

3. In the Affidavit-Complaint dated September 19, 1991, of Ma. Concepcion B. Diaz, which was received by

the Office of the Court Administrator on September 20, 1991, she asserted, inter alia, that:

3.1. She blamed Judge Genaro C. Gines, Presiding Judge, RTC, Branch 26, San Fernando, La Union, Ma. Gorgonia Flores, Court Interpreter and Officer-In-Charge, same Court, and Rosie Munar, Stenographic Reporter, same Court, for applying pressures and intimidations to her in order that the cases of their choice may no longer be forwarded to the proper Officer-In-Charge;

3.2. Several petitions have been prepared by the (sic) Judge Gines himself in coordination with his Stenographer Rosie Munar and Court Interpreter Ma. Gorgonia Flores, some of which are as follows:

3.2.1. Special Proceeding No. 1965 where the petitioner, who alleged himself to be a resident of San Fernando, La Union, is actually a resident of Sta. Cruz, Ilocos Sur and the Aunt of Judge Gines. The required bond of P500.00 therein has not yet been posted; and

3.2.2. Special Proceeding No. 1967 where the Office of the Solicitor General and other parties were not furnished with copies of the petition upon the instruction of Judge Gines."

The respondents were then required to answer the complaint.

Separate motions for an extension of time to file their answers were made by the respondents, but only respondents Pacita Diaz and Ma. Concepcion Diaz filed their Answer within the extended period. The Resolution which granted the others the extension warned them that no further postponements would be granted. Notwithstanding such caveat, however, they again asked for another extension. In the Resolution of 28 May 1992, this Court ruled, inter alia, that:

"It appearing that said respondents have not taken this case seriously, and considering the prior warning in the Resolution of 7 May 1992, the above motions for another extension of time to file the Answers are hereby DENIED. The respondent Judge and respondents Flores, Munar and Lacsamana are deemed to have waived the filing of their Answer."

As it turned out, respondents Flores, Munar and Lacsamana were able to post their joint Answers on 15 May 1992, the last day of the additional period they had prayed for in their second motion which was eventually denied in the aforementioned Resolution.

Respondents then filed a motion to reconsider the Resolution of 28 May 1992; the same was denied in the Resolution of 14 July 1992. This latter resolution likewise denied the respondent Judge's motion to reconsider the 7 May 1992 Resolution wherein he prayed that his answer (actually a Comment), dated 14 May 1992, be admitted. However, this Court resolved that the said comment be attached to the record of the instant case.

In the same 14 July 1992 Resolution, the instant case was referred to Mr. Justice Nathanael P. De Pano, Jr. of the Court of Appeals for investigation, report and recommendation.

On 31 March 1993, Justice De Pano, Jr. submitted his 26-page REPORT. It appears therefrom that on 2 September 1992, he issued an order (a) requiring the parties to file their respective affidavits which shall serve as their direct testimonies in this case subject, however, to cross-examination by the adverse parties and (b) setting the initial hearing of the case for 28 September 1992. Respondents Pacita Diaz and Ma. Concepcion Diaz submitted their joint affidavit, dated 9 September 1992, as well as the affidavits of Fortunata Gualberto, retired branch clerk of court of Branch 27 of the Regional Trial Court (RTC) in San Fernando, La Union, and Consolacion M. Dulay, Clerk III of the same Branch 27. Respondents Gorgonia Flores, Rosie Munar and Alfredo Lacsamana likewise submitted their individual affidavits which are all dated 14 September 1992. Respondent Judge Gines, for his part, filed a manifestation, dated 17 September 1992, adopting his 14 May 1992 Comment as

his direct testimony as well as the aforesaid affidavits of respondents Flores, Munar and Lacsamana.

At the hearing on 28 September 1992, the parties entered into a stipulation of facts. They agreed on the status and personal circumstances of the parties as stated in the affidavits, as well as the descriptions of their respective positions in the RTC in San Fernando, La Union; the assumption into office of the respondent Judge in January of 1987; the non-membership of the respondent Judge and the other respondents in the raffle committee; and the procedure prescribed for the raffling of cases filed with the RTC in San Fernando, La Union. The respondents then marked as exhibits their affidavits and other documents.

It further appears from the REPORT that no testimonial evidence was offered by the parties. While the complainant wanted to present Atty. Sanglay, the respondents admitted her report and agreed to dispense with her testimony. The complainant then marked in evidence the following documents: (1) the undated Report of Atty. Aurora Sanglay to the Executive Judge, as Exhibit "A"; (2) the 17 June 1991 Letter of Atty. Aurora Sanglay addressed to the Executive Judge, with annexes, as Exhibit "B"; (3) the Joint Affidavit of Pacita and Ma. Concepcion Diaz dated 11 September 1992, as Exhibit "C"; (4) the Compliance of respondents Flores, Munar and Lacsamana, Jr., as Exhibit "D"; (5) the Affidavit of respondent Flores dated 14 September 1992, as Exhibit "E"; (6) the Affidavit of Romeo Hermosura dated 14 September 1992, as Exhibit "F"; (7) the Affidavit of Teodorico Basilio dated 14 September 1992, as Exhibit "G"; (8) the Affidavit of respondent Munar dated 14 September 1992, as Exhibit "H"; (9) the Affidavit of respondent Lacsamana, Jr. dated 14 September 1992, as Exhibit "I"; and (10) the Manifestation of respondent Judge Gines dated 17 September 1992, as Exhibit "J." It appears that counsel for the complainant expressed a desire to cross-examine respondents Flores, Munar and Lacsamana but that the latter's counsel objected on the ground of possible self-incrimination. These three respondents further manifested that they were not presenting any evidence against the other respondents. Respondents Pacita Diaz and Concepcion Diaz likewise manifested, through counsel, that they will not present evidence on account of the possibility of self-incrimination. Respondent Judge Gines did not present his evidence.

Justice De Pano, Jr. then made the following observations, findings and conclusions in his REPORT:

"Executive Judge Braulio Yaranon of the San Fernando, La Union Regional Trial Court, in a letter dated June 20, 1991, transmitted to the Court, the report dated June 17, 1991, of Attorney Aurora Sanglay, the said Court's Clerk of Court, on the subject of cases that had not been raffled by the appropriate committee on raffle but which nevertheless, found their way mostly, to Branch 26 of the said Court (presided over by respondent Genaro Gines from January 1987) and Branch 27 (the letter and its annexes were later marked Exhibit B. In 1986, the report states, 6 criminal cases, 9 civil cases, 51 special proceedings cases and 9 land registration cases, (a total of 75 cases) did not pass through the raffle committee but went directly to the branch which apparently acted on the cases without question. In 1987, 8 criminal cases, 9 civil cases, 13 special proceedings cases, 2 land registration cases (a total of 32 cases) did not pass through the raffle committee. In 1988, 9 civil cases, 18 special proceedings cases and 2 land registration cases (a total of 29 cases) went directly to the branches mentioned. A total of 136 cases from 1986 to 1988, Attorney Sanglay reports, went from filing/docketing direct to two branches without undergoing the mandated raffle by the raffle committee.

The more germane report, one which demonstrates the continuing perpetuation of the above obviously illegal and nefarious system of directing cases filed with the Regional Trial Court of San Fernando, La Union to Branches 26 and 27 of that court, is the undated report of Clerk of Court Aurora P. Sanglay to Executive Judge Braulio Yaranon, and received by his office on June 6, 1991. The letter, uncontroverted, is marked Exhibit A, Court Administrator, and it reads thus:

'In compliance to (sic) your memorandum dated may 23, 1991, directing the undersigned to make an investigation re the matter of cases filed before my office (Office of the Clerk of Court), which did not undergo the mandatory raffle procedure, herewith are my findings:

'The period covered by my investigation is from April 3, 1989 to April 1991. In summary, during this period, there were FORTY-FOUR (44) Special Cases, TWENTY-SEVEN (27) Land Registration Cases, SIX (6) Civil Cases, and THREE (3) Criminal Cases which did not pass through raffle, but which were instead directed to specific RTC Branches, particularly Branch 26 and Branch 27. A great majority of these cases however were assigned to Branch 26.

'Attached is the list of these cases mentioned for your reference. This data obtained (sic) by counterchecking the Minutes of previous raffles covering the period of my investigation vis-a-vis the corresponding docket books.

'Until your memorandum dated May 24, 1991, the following persons were in-charge of receiving and docketing the following kinds of cases:

'Mrs. Pacita Diaz -- Land Registration Cases

'Miss Ma. Concepcion Diaz -- Special Proceedings Cases

'Mr. Alfredo Lacsamana -- Civil Cases

'Criminal Cases were docketed by Mr. Vicente Tatumay of the Prosecutor's Office and received by either Mr. Alfredo Lacsamana, Jr., the person handling all cases filed for raffle, or Mr. Oscarlito Fantastico or any of the clerks in the OCC, in his absence.

'Supposed to be, all these filed cases are to be turned over to Mr. Alfredo Lacsamana Jr. for raffle, but as per my findings, some of these cases were not at all included in the mandatory raffle, but were instead directed to specific RTC Branches. The possibility is not remote that these clerks in-charge of receiving their respective cases deliberately did not submit some of their received cases for raffle.

'A lapse in the system and poor monitoring also provided for this thing to happen. Instances are common where a client/lawyer is allowed possession of the papers to be filed at certain critical stages of the receiving process, specifically after the docketing and payment of filing fees, and after said stages, the possibility is not likewise remote that these papers are not submitted to the person in-charge of the raffle.

'The undersigned had already instituted procedures, i.e. centralized receiving, payment of filing fees, docketing, and has strengthen (sic) monitoring of the cases and the number of cases filed to prevent occurrence (sic) of similar nature. (Exhibit A, Court Administrator, pp. 76-77, rec., 3rd Folder)

Clerk of Court Sanglay's report includes 44 special proceedings cases, 27 land registration cases, 6 civil cases and 3 criminal cases or a total of 80 cases that did not pass through raffle from April, 1989 to April, 1991 but found their way directly to Branches 26 and 27 of the Regional Trial Court of San Fernando, La union. Of these 80 cases, all, except 3, found their way to Branch 26, occupied by respondent Judge Genaro Gines who, as he admits, was assigned in (sic) that branch since January, 1987.

The respondents here are Judge Genaro Gines, the incumbent presiding judge of Branch 26 of the RTC in Judicial Region No. 1 based in San Fernando, La Union; Pacita Diaz, a staff member in that court now retired in the period covered by the Sanglay report, in charge of filing and docketing of land registration cases; Pacita Diaz's daughter, Ma. Concepcion Diaz, another staff member in Branch 26, during the period covered by the Sanglay report, the clerk in charge of the filing and docketing of special proceedings cases; Alfredo Lacsamana, Jr., in the period covered by the Sanglay report the clerk in-charge of the filing and docketing of civil cases; Rosie Munar, court stenographic reporter; and Ma. Gorgonia Flores, court interpreter and the Officer-in-Charge of Branch 26. Francisco (sic) Lacsamana, Jr., additionally, was assigned to gather all cases filed and docketed in the week -- civil, criminal, special proceedings, land -- one day before the weekly raffle, and to transmit these newly filed cases to the Committee on Raffle. Ma. Gorgonia Flores, Officer-in-Charge of

Branch 26, oversees the administrative machinery of Branch 26 (pp. 8-9, t.s.n., September 28, 1992).

The respondents felt that since the Court Administrator limited himself to the sworn statement and report of Clerk of Court Attorney Aurora Sanglay, they were not called upon to present evidence in their behalf as it would amount to self-incrimination. They refused to testify; they refused to be cross examined. Your investigator informs the Court that the Sanglay affidavit and report are uncontroverted. Admissions in the sworn statements forming part of the record are utilized in this report in addition to the stipulated facts.

The respondents are charged in the administrative complaint:

- (1) for dishonesty, in violation of paragraph (e), Section 3 of Republic Act No. 3019, the Anti-Graft and Corrupt Practices Act, as amended;
- (2) for violation of Administrative Order No. 6, dated June 30, 1975;
- (3) for violation of Circular No. 7, dated September 23, 1974; and
- (4) for violation of Administrative Order No. 1, dated January 28, 1988.

The last three, Supreme Court issues, have to do with the creation of a raffle committee in multi-branch Regional Trial Courts, with supervision of the raffle of newly-filed cases; with the manner of raffling cases, and establish the policy that no case, in multi-branch trial courts, may be assigned to any branch or sala unless it had undergone the raffle process.

Supreme Court Circular No. 7, September 23, 1974 mandates that in courts with several branches, cases shall be assigned to the different branches only by raffle. 'No case may be assigned to any branch without being raffled.' (Part I) And immediately after raffle, the Executive Judge is mandated by the said Circular to indicate the particular branch to which the case is raffled, 'the same to be written in words and in figures on the cover of the Rollo and on the first page of the original complaint or information and initialled by the Executive judge and the two other officers who attended said raffle.' (Part III). The same circular created a raffle committee of three, composed of the Executive Judge and two other judges of the court. The Executive Judge, supervises the Raffle. Administrative Circular No. 1, (January 28, 1988) reiterates strict compliance with Administrative Order No. 6 (June 30, 1975) and Circular No. 7 (September 23, 1974) Raffle of cases, this later Circular required, must be 'in open session in the presence of lawyers and spectators x x x.' (Section 8.1). The Court in this later Circular restated the *res ipso loquitor* (sic) rule regarding the conduct and removal of judges (Section 5.2).

It is, therefore, beyond cavil, that under the rules governing the administration of courts, all cases filed in court must go through the raffle committee for assignment. No case must be assigned, in multi-branch courts, unless it is raffled by the Raffle Committee. The 80 cases involved in this case, filed from April 1989 to April 1991, were not raffled, but were directly assigned to, or taken by, Branch 26 (except 3) under respondent Judge Gines. Respondent Judge Gines must know, under the above Supreme Court acts, at a simple glance on the cover of the rollo and the first page of every such record, whether a case was assigned to him after going through raffle or not. Cases assigned to his branch, after going through the required raffle, show on the face of the rollo, in words and figures, the branch to which the case is assigned, authenticated by the initials of the Executive Judge and the two other members of the Committee. From January 1987, when respondent Judge Gines was appointed to Branch 26, the respondent judge had received unraffled cases, considered them and decided them. He had done so, apparently, not because he was a maniac of a worker, nor because he loved his work but for reasons unspoken in this case. Why should a sane judge accept additional cases for study and decision, in addition to his regular load, without any benefit or consideration? Here, obviously, the *res ipso loquitor* (sic) doctrine applies.

Among the administrative officers charged here, Alfredo Lacsamana, Jr., as stipulated, gathers all the cases filed and docketed in any particular week, for transmittal to the Committee on Raffle. He prepared the cases for

raffle, including the preparation of the pieces of paper properly written on, to be picked in the raffle. It was his job to do so. He was assigned to do so; he admitted so. That he did not do so is obvious from the Sanglay report -- from 1989 to 1991, he failed to transmit 80 cases -- and these cases found their way (except for 3) to respondent Judge Gines. The Sanglay report is not controverted. It was Lacsamana's job to collect all cases docketed, and to transmit them to the Raffle Committee. 80 such cases he did collect and failed to report to the Raffle Committee from April, 1989 to April, 1991.

The Diazes, in the period covered by the Sanglay report had apparently fallen out with respondent Judge Gines and respondents Flores, Munar and Lacsamana. In an affidavit dated September 18, 1991 executed by respondent Ma. Concepcion Diaz, the following passages appear, to wit:

x x x

The conflict between the Diazes and the other respondents deem (sic) to have arisen from the suspicion the respondent Judge entertained that the Diazes had 'squealed' on him to the Executive Judge, the Honorable Braulio Yaranon. This is contained in the Diazes Joint Affidavit dated September 9, 1992 (Marked C-Diaz), in the following passage:

x x x

As to the two other respondents, respondents Ma. Gorgonia Flores, who is officer-in-charge of Branch 26, and Rosie Munar, court interpreter, there appears to be no evidence. The record shows that when the Court Administrator's lawyers rested their case with the presentation of the Sanglay report, the respondents refused to be cross-examined on their sworn statements. Consequently, each sworn statement lost value as evidence against the other respondents. However, it may be easily inferred that as court officer-in-charge, respondent Flores was in (sic)-duty bound to supervise the work of her subalterns. The non-raffling of 80 cases during the period covered from April, 1989 to April 1991 reflects her failure to do her job.

x x x

The Supreme Court orders and circulars complained of as having been violated, are directed to district judges, while Section 3, paragraph (e) of RA 3019 is inclusive in scope, penalizing public officers for 'causing undue injury to any party x x or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative a (sic) judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence x x x.'

The prosecution had limited itself to presenting the Sanglay report. It is apparent that we must take the Diazes' statement that they were pressured to do that which they had to do, and whatever it was, was done without consent, and against their will. However, under the facts here, all the cases filed docketed in Branch 26 were collected by respondent Lacsamana, Jr. who was in (sic) duty bound to forward the cases to the Raffle Committee. That 80 such cases did not find their way to the Committee, but ended up as 80 extra cases (except 3) in the docket load of the respondent judge, means at the very least that Lacsamana, Jr. failed to perform his job. The respondent judge in accepting or securing, such 80 cases, (minus 3) that did not pass through raffle, for his action and resolution, and which he eventually resolved violated all the Supreme Court circulars on the matter with the help and cooperation of respondent Lacsamana, Jr. Evidently, respondent judge must have received undue benefits and advantages (which have not been demonstrated in this case) in securing this extra load of cases, benefits and advantages coming from the party benefitted (sic) by his action, and at the same time, granted the parties involved in the some (sic) 80 cases that did not undergo raffle, undue and unwarranted benefits resulting from the bias and partiality in their favor coming from the respondent judge. As earlier observed, a single glance at the cover and first page of each of the 80 or so rollos would show that they were unraffled, and yet, the respondent judge knowing that such cases were unraffled, secured the said cases, considered them and decided or resolved them, in violation of law.

It would appear, therefore, that the respondent judge is guilty of the charges in the administrative complaint. Along with him as guilty, is respondent Alfredo Lacsamana, Jr. This conclusion is bolstered by, among other things, the Diazes' statement that cases were indeed directly secured by the respondent judge without their undergoing raffle.

With respect to the other respondents, it could be deduced that respondent Ma. Gorgonia Flores, as officer-in-charge of Branch 26, would have known that Alfredo Lacsamana, Jr. was not doing his job of forwarding all docketed cases to the Raffle Committee faithfully."

He then recommends:

"WHEREFORE, it is respectfully recommended:

1. That respondent Judge Genaro C. Gines be appropriately penalized for violation of all the Supreme Court orders and circulars mentioned in the Administrative Complaint for the period covered from April 1989 to April 1991, plus apparent violation of Section 3, paragraph (e) of R.A. 3019;
2. That respondent Alfredo Lacsamana, Jr. for his apparent failure to do his job, be, likewise appropriately penalized, at least with a 6-month suspension without pay; and
3. That respondent Ma. Gorgonia Flores be likewise penalized with a 3-month suspension without pay; and
4. That the other respondents be warned against committing any such violations."

The continuing deliberate violations of Administrative Order No. 6 (dated 30 June 1975), Circular No. 7 (dated 23 September 1974) and Administrative Order No. 1 (dated 28 January 1988) for the years reported in Atty. Sanglay's report, and their belated discovery boggle our minds. The irregularities should have been easily discovered by the respondent Judge either because the fact that a case has not been properly raffled off is at once discernible on the cover of the records and on the first page of the original of the initial pleading (complaint, information, etc.), or because plain common sense would have told him that something was wrong somewhere as an unusual number of cases of the same class had been "assigned" to his sala. That he had failed to appreciate the physical evidence or, at the very least, exhibit surprise at the unusual number of cases is quite amazing. Thus, we are loathe to grant him the benefit of the doubt and conclude that he had no interest whatsoever in having those cases raffled off to him and that he only loved to work more than the others. Given the circumstances of this case, we cannot merely cut him some slack and assume good faith on his part; he deserves no such treatment. As the investigating Justice himself assessed the situation:

"x x x The 80 cases involved in this case, filed from April 1989 to April 1991, were not raffled, but were directly assigned to, or taken by, Branch 26 (except 3 under respondent Judge Gines. Respondent Judge Gines must know, under the above Supreme Court acts, at a simple glance on the cover of the rollo and the first page of every such record, whether a case was assigned to him after going through raffle or not. x x x From January 1987, when respondent Judge Gines was appointed to Branch 26, the respondent judge had received unraffled cases, considered them and decided them. He had done so, apparently, not because he was a maniac of a worker, nor because he loved his work but for reasons unspoken in this case. Why should a sane judge accept additional cases for study and decision, in addition to his regular load, without any benefit or consideration? Here, obviously, the *res Ipso loquitor* (sic) doctrine applies."

The irregularity and violations of the aforementioned administrative orders and circular could not have been committed so blatantly, brazenly and openly for an unusually long period of time if the respondent Judge did not have the cooperation of some of the court employees. We therefore agree with the investigating Justice that such support and cooperation were extended by subordinates who likewise had something to do with the raffle of cases. Hence, the findings on the degree of participation, either by commission or omission, of respondents Flores and

Lacsamana are sustained.

In his report, the investigating Justice absolves the Diazes and Munar from responsibility in the aforesaid irregularities.

With respect to respondent Pacita Diaz, the case has become moot as she died on 10 February 1993.[1] Thus, the case is dismissed insofar as she is concerned.

On the other hand, while we find no evidence to link respondent Munar to the aforementioned irregularities, we hold that respondent Ma. Concepcion Diaz is not entirely blameless. In her affidavit of 18 September 1991, the relevant portions of which are quoted in the REPORT of Justice de Pano, she explicitly admitted:

"11. In my explanation dated May 27, 1991 to the Memorandum of Judge Yaranon, while I might have made an admission that I was the clerk receiving cases that later turned out to be unraffled, I placed the direct blame on Judge Gines and my two officemates, namely, Mrs. Ma. Gorgonia L. Flores and Mrs. Rosie Munar who had applied all sorts of pressures upon me, including series (sic) of intimidation and insinuations in order that cases of their choice receive (sic) by me may no longer be forwarded to the proper officer-in-charge of the raffle, but to them directly in Branch 26,"[2]

It is to be noted that Ma. Concepcion did not elaborate on the nature of such intimidation and insinuations. In view of the fact, however, that she was in charge of receiving and docketing special proceedings cases, and that out of the controversial 80 unraffled cases, 44 were special proceedings cases, her participation could, by no means, be considered as insignificant. And even if the alleged "intimidation" and "insinuations" were true, they still would not exculpate her in view of the length of time involved, the number of cases questioned and the absence of proof that such intimidation and insinuations were persistent, continuous and irresistible. It is thus clear that she had, by neglecting her duty, allowed herself to be used by the other respondents.

A far more serious matter which has escaped the attention of the investigating Justice involves the charges set forth under paragraph 3 of the Administrative Complaint, particularly on the preparation by the respondent Judge, allegedly in coordination with respondents Munar and Flores, of petitions in certain cases, some of which are (a) Special Proceeding No. 1965 wherein it is made to appear that the petitioner therein -- an aunt of the respondent Judge and a resident of Sta. Cruz, Ilocos Sur -- resides in San Fernando, La Union, and (b) Special Proceeding No. 1967 wherein the Office of the Solicitor General and the other parties were not furnished with copies of the petition upon order of the respondent Judge. Not having undergone the prescribed raffle procedure, these two cases were directly assigned to the respondent Judge who then acted thereon. The said petitions, the pertinent orders issued in the course of the proceedings therein and the minutes thereof were attached by the respondent Judge to his 14 May 1993 Comment, which he had adopted as his direct testimony pursuant to his 17 September 1992 Manifestation (Exhibit "J"). These documents provide conclusive proof of more serious irregularities amounting to either gross ignorance or malicious disregard of applicable procedural laws, grave misconduct, grave abuse of authority and conduct prejudicial to the best interest of the service. The respondent Judge made a mockery of the judicial process as it is obvious that he had displayed a special interest in these cases; in fact, he even caused the cases to be excluded from the raffle. A careful review of the abovementioned petitions will reveal that the designation "Branch 26," indicating the branch presided over by the respondent Judge, has been originally typewritten as part of the caption, and not merely entered in the blank space reserved for the branch to which the case may subsequently be raffled off. It is to be further observed that the petition in Special Proceeding No. 1965 was subscribed and sworn to before respondent Flores in her capacity as the Officer-in-Charge of the Office of the Clerk of Court, Branch 26.

Special Proceeding No. 1965 involves a petition for guardianship over the person and property of a certain Juan

R. Lagmay. The said petition was filed by Regina Lagmay Valdez -- who claims to be a resident of Poblacion, San Fernando, La Union[3] -- on 24 September 1990, and alleges that Juan R. Lagmay is "presently residing at No. 2579 Pamintuan Village, Mabalacat, Pampanga." Upon its filing, the respondent Judge immediately issued an order (a) giving due course to the petition, (b) directing that notices be served to Juan Lagmay's nearest of kin, namely Bonifacia Lagmay, Lilia Gumangan and Mariano Lagmay, all residents of Las-ud, Sta. Cruz, Ilocos Sur and (c) directing the latter to submit their opposition to the petition, if any, on or before 8 October 1990 at 8:30 a.m.[4] No order setting the case for hearing at that particular date, time and place was issued. It would appear, however, that this 24 September 1990 order was considered by the respondent Judge as the order setting the case for hearing on 8 October 1990 because respondent Flores prepared the Minutes of the alleged proceedings conducted on 8 October 1990.[5] The said Minutes show that the following exhibits were offered for jurisdictional purposes: (1) Notice of hearing, as Exhibit "A" and (b) the dorsal side of Exhibit "A," purportedly to show that Juan Lagmay's nearest of kin were furnished with the notice of hearing, as Exhibit "A-1." Said Minutes further disclose that the petitioner therein was not assisted by counsel; that respondent Flores acted as Interpreter while respondent Munar acted as Stenographer; and that since no opposition was filed therein, the testimony of the petitioner was received. The latter then allegedly declared that she is a resident of Poblacion, San Fernando, La Union; she is Juan Lagmay's niece as he is her father's brother; and Juan Lagmay is an American citizen, single, childless, a resident of 2579 Pamintuan Village, Mabalacat, Pampanga and a retired seaman receiving pension from the Social Security Administration of the United States of America in the amount of \$550.00 a month. Thereafter, the respondent Judge issued an order appointing petitioner Regina Valdez as the guardian of the person and property of Juan R. Lagmay, and directing her to take her oath as such upon the filing of a bond of P500.00, after which she would be issued letters of guardianship. Without the bond having first been filed, however, respondent Flores administered the oath to Regina Valdez.[6] Thereafter, or on 18 October 1990, respondent Flores issued to the latter her letters of guardianship.[7]

A closer examination of the so-called proofs of notice of hearing to the nearest of kin, consisting supposedly of "registry return receipts," reveals that there are no entries in the blanks reserved for information on the name of sender, name of post office, municipality or province where the same post office is located, registry number and case number. It is not likewise indicated therein when the addressees received the "registered" letter. In view thereof, the conclusion that the so-called notices were not sent at all is inevitable.

Respondent Judge knew or ought to have known that his court was not the proper venue for the case because the person sought to be placed under guardianship was alleged to be a resident of Mabalacat, Pampanga. Section 1, Rule 92 of the Revised Rules of Court provides that:

"Guardianship of the person or estate of a minor or incompetent may be instituted in the Court of First Instance of the province, or in the justice of the peace court of the municipality, or in the municipal court of the chartered city where the minor or incompetent person resides, x x x" (underscoring supplied for emphasis).

Worse, the aforesaid Order of 24 September 1990 did not even direct that notice be served on Juan Lagmay, the very party sought to be placed under guardianship. Such an omission, therefore, clearly violated Section 3, Rule 93 of the Revised Rules of Court which directs the court to fix the time and place for hearing and cause reasonable notice to be given to the person named in the petition, including the minor if above 14 years of age or the incompetent himself. We have ruled that service of notice to the minor above 14 years of age or the incompetent is jurisdictional.[8] Failing to have notice sent to Juan Lagmay, respondent Judge had no jurisdiction to proceed with the hearing on 8 October 1990, receive the petitioner's testimony, if he did at all, and thereafter appoint her as Juan Lagmay's guardian. Nor was the respondent Judge justified in issuing on 22 January 1990 -- pursuant to the petitioner's 17 January 1990 motion[9] -- an order appointing deputy sheriffs Oscar Fantastico and Romualdo Baladad as special sheriffs to take custody over the person of Juan Lagmay from one Florencio "Boy"

Cortes of Bolinao, Pangasinan. In the said order, respondent Judge further directed Boy Cortes "to release from his custody and deliver the person of said Juan R. Lagmay, a.k.a. John R. Lagmay to the aforementioned special sheriffs immediately upon receipt of this Order, under pain of contempt." [10] Based on the special sheriffs' report, [11] however, Boy Cortes did not release Juan Lagmay because the latter was too weak and sickly to travel. This refusal prompted the respondent Judge to order Boy Cortes' arrest (for contempt) and confinement until he shall have complied with the said order. [12] It was respondent Flores who forwarded the warrant of arrest to the PNP Regional Command at San Fernando, La Union for its service. [13]

Having acquired no jurisdiction to hear the case and appoint Regina Valdez as Juan Lagmay's guardian, respondent Judge acted clearly beyond his authority when he designated special sheriffs to take custody of Juan Lagmay, directed the person who had custody over the latter to deliver him to the said special sheriffs and ordered the arrest of the said person who refused to surrender custody. And even if we are to assume, for the sake of argument, that the respondent Judge had validly acquired jurisdiction over the case and appointed Regina Lagmay as guardian, and that Boy Cortes did in fact refuse to deliver Juan Lagmay to the special sheriffs, he (respondent Judge) would still be guilty of gross ignorance of the law for ordering Cortes' arrest and confinement. In such a situation, the petitioner's remedy would be to file a petition for habeas corpus, and not to have Boy Cortes cited for contempt, much less arrested.

We shall now focus our attention to Special Proceeding No. 1967. It is a very strange proceeding. The case involves a petition for the "judicial confirmation of the de facto adoption" of Cecilia Averion filed on 11 October 1990. The petitioner therein alleges that she and her late husband, Fernando Averion -- who died in 1987 -- "adopted" Cecilia Averion in 1967; only 1 year and 3 months old at the time, Cecilia was supposedly given up by her natural parents, the whereabouts of whom remain unknown. Petitioner further avers that she and her husband, during his lifetime, reared the child and gave her all their love, attention, care and understanding. They also provided her with an education and considered her as their own child. Hence, the petition was filed "for the purpose of judicially confirming the de facto adoption of Cecilia Averion by herein petitioner and her late husband." [14] The said petition was not accompanied by the written consent of Cecilia Averion who, at the time of filing, was already of legal age. On the very day the petition was filed, respondent Judge forthwith issued a Notice of Hearing which provided that the petition would be heard on 31 October 1990; it was likewise ordered therein that "a copy of this notice be published once a week for three consecutive weeks at the expense of the petitioner in a newspaper of general circulation in La Union and in the Philippines." [15]

From the so-called Minutes of the proceedings of 31 October 1990, [16] as prepared by respondent Flores, it appears that the following exhibits were offered to establish the jurisdiction of the court: (1) the affidavit of the Editor of the North Tribune, "a newspaper of general circulation in La Union and Northern Luzon provinces," published in San Fernando, La Union, as Exhibit "A"; (2) clippings of the published order in the 10, 17 and 24 October 1990 issues of the North Tribune, as Exhibits "A-1," "A-2" and "A-3," respectively; and (3) the entire issues of the North Tribune for 10, 17 and 24 October 1990, as Exhibits "B," "B-1" and "B-2," respectively. It may further be gleaned from the said Minutes that since no opposition was registered by any other party, the petitioner's testimony was received by the court. On 6 November 1990, the respondent Judge handed down a decision [17] granting the petition and decreeing as follows:

"WHEREFORE, this Court hereby approves the petition and hereby confirms the de facto adoption of Cecilia Averion by herein petitioner and her late spouse Fernando Averion retroactive to the year 1967."

The remedy pursued in Special Proceeding No. 1967 is certainly unusual as we are not aware of any prescribed action that may be instituted for the judicial confirmation of a de facto adoption. Nor do our adjective and substantive laws on adoption provide for such a proceeding. In fact, the only proper and authorized procedure

relative to adoption is outlined in the rule on adoption itself.[18] That Cecilia Averion had been treated by the petitioner and her husband as their own child during the former's minority may only provide compelling reasons to grant the decree of adoption notwithstanding her (Cecilia's) having attained the age of majority. This is one of the exceptions provided by the Family Code to the rule that a person of legal age cannot be adopted.[19]

In "confirming" the so-called de facto adoption and decreeing the same to be "retroactive to the year 1967," respondent Judge has carved a name for himself in history for, as already pointed out, no action or proceeding for judicial confirmation of a de facto adoption is authorized in this jurisdiction. Furthermore, by its very nature and purpose, a decree of adoption can never be made to retroact. Lastly, considering that the petitioner's husband had died in 1987, or three years before the petition was filed, he could not now be resurrected for purposes of the adoption, be in fact declared an adopter and be subsequently bound by the decree to the prejudice of his heirs.

Then too, respondent Judge completely disregarded the fact that Cecilia Averion had submitted no written consent to the adoption at the time of the filing of the petition or at any subsequent date -- a manifest infirmity. Nor was Cecilia called to testify in the case. Moreover, there seems to be an irregularity in the publication of the notice of hearing. It is to be observed that as indicated in the upper right hand corner of the first page of the petition, the proceeding was instituted on 11 October 1990. If this were so, the notice of hearing which was issued by the respondent Judge on that same date[20] could not have been published in the North Tribune in its 10 October 1990 issue. In his affidavit, the Editor of the said newspaper disclosed that the notice was indeed published on 10 October 1990.

All told, respondent Judge completely ignored the procedural rules on adoption and promulgated guidelines for himself to suit his own purpose and design.

Hence, it is evident that Special Proceeding No. 1965 and Special Proceeding No. 1967 were not only directly filed with the court of the respondent Judge without passing through the raffle procedure, the two cases were also resolved by the latter in a manner that may be characterized by gross ignorance or the brazen and blatant disregard of the applicable procedural laws, grave misconduct, palpable abuse of authority and conduct prejudicial to the best interest of the service. He is therefore unfit to continue in the service a day longer. He has evidently forgotten that the administration of justice is a sacred task. Upon assumption to office, a judge ceases to be an ordinary mortal. He becomes "the visible representation of the law and, more importantly, of justice." [21] A judge must be the embodiment of competence, integrity and independence, [22] and should be studiously careful to avoid even the slightest infraction of the law, lest it be a demoralizing example to others. [23]

As shown in the above disquisitions, respondent Flores was a willing participant in the commission of the irregularities in both proceedings. On the other hand, however, respondent Munar's participation has not been substantiated.

Before closing, we would like to point out that per our Resolution of 2 March 1993, we referred to Justice De Pano for inclusion in his investigation the 29 January 1993 letter of Executive Judge Baulio Yaranon which was addressed to Deputy Court Administrator Juanito Bernad. [24] In his letter, Judge Yaranon informs the latter about matters discovered in the course of the audit which are more serious than the "illegal raffling" of cases. He then exposes alleged case fixing and illegal office practices committed on a large scale by a syndicate composed principally of court officers and personnel, and describes the modus operandi of those involved as follows:

"The operation in a particular case, starts with 'AMBULANCE CHASING'; after arrangements are made with a prospective applicant/petitioner, a petition is prepared by the syndicate; the same is then signed personally by the petitioner/applicant; and the oath for purposes of verification, is administered also by the syndicate.

The petition/application is then filed with the Office of the Clerk of Court, where syndicate members receive

and docket the case in the docket book of Branch 26; the case is deliberately separated from the cases that are turned over to the Raffle Committee, and is directly turned over to Branch 26. Care is taken that the date of filing is made to coincide with the scheduled day for raffling of cases (Tuesdays).

On the same date of filing, the ORDER setting the case for initial hearing, is issued by Branch 26. On the date of initial hearing, a lawyer-contact of the syndicate enters an appearance for the petitioner/ applicant, and he then presents jurisdictional facts.

On the very same day of initial hearing (in special proceedings) and without any ACTUAL HEARING (in special proceedings and land registration cases), for the reception of evidence on the material allegations of facts in the application/petition, a DECISION is forthwith issued."

Judge Yaranon then partly concludes:

"Just one aspect of the matter is herein submitted for consideration. The issuance of a DECISION without any previous hearing being held for the reception of evidence by the applicant/petitioner, constitutes FALSIFICATION OF A PUBLIC DOCUMENT by a public officer, under Article 171, Revised Penal Code committed by:

'2. Causing it to appear that persons have participated in an act or proceeding when they did not in fact so participate; x x x' (par. 2, Art. 171, Revised Penal Code)."

According to Justice De Pano, he received the 2 March 1993 Resolution just as he was about to write his report in this case. He then suggests that the matter subject thereof be treated separately and that "appropriate charges be levelled against the respondent Judge principally, and his cohorts, with the Tanod Bayan, for criminal prosecution." [25] Indeed, the referral of Judge Yaranon's letter to Justice De Pano may have been too late. In any event, the charges proffered therein may be separately dealt with.

IN THE LIGHT OF ALL THE FOREGOING, judgment is hereby rendered:

(1) DISMISSING from the service respondent Judge GENARO C. GINES with prejudice to re-employment in the government, including government-owned or controlled corporations, and with forfeiture of all benefits except earned leave credits. This dismissal shall be immediately executory and said respondent Judge is hereby ordered to forthwith vacate his position and desist from performing any further official function;

(2) SUSPENDING from office respondents MA. GORGONIA L. FLORES and ALFREDO V. LACSAMANA, JR. for a period of six (6) months each, without pay;

(3) SUSPENDING from office respondent MA. CONCEPCION B. DIAZ, for a period of three (3) months, without pay.

The foregoing suspensions shall take effect immediately upon the service of a copy of this Decision on the aforementioned respondents MA. GORGONIA L. FLORES, ALFREDO V. LACSAMANA, JR. and MA. CONCEPCION B. DIAZ. The periods of their respective suspensions shall not be charged against their leave credits, if any;

(4) DISMISSING this case as against respondent PACITA B. DIAZ in view of her demise; and

(5) DISMISSING this case as against respondent ROSIE M. MUNAR for lack of substantial evidence.

The Office of the Court Administrator is hereby directed to evaluate the 29 January 1993 letter of Executive Judge Braulio Yaranon -- subject of the 2 March 1993 Resolution of this Court in this case -- and to submit to this Court appropriate recommendations thereon within fifteen (15) days from receipt of a copy of this Decision.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Melo, and Quiason, JJ., concur.

Bellosillo, J., No part. Court administrator when complaints were evaluated.

[1] See 29 April 1993 urgent motion of respondent Ma. Concepcion Diaz, temporary rollo.

[2] Report, 17.

[3] Rollo, vol. 1, 180-181.

[4] Id., 182.

[5] Id., 186.

[6] Rollo, vol. 1, 190.

[7] Id., 189.

[8] REGALADO F.D., Remedial Law Compendium, vol. 2 1984 ed., 504, citing Nery vs. Lorenzo, L-23376, 27 April 1972.

[9] Rollo, vol. 1, 191-192.

[10] Id., 199.

[11] Id., 200.

[12] Id., 201-202.

[13] Id., 203.

[14] Rollo, vol. 1, 206-207.

[15] Rollo, vol. 1, 208.

[16] Id., 217.

[17] Id., 218-219.

[18] Rule 99, Revised Rules of Court.

[19] Article 187.

[20] Rollo, vol. 1, 208.

[21] De la Paz vs. Inutan, 64 SCRA 540 [1975]; Fonacier-Abaño vs. Ancheta, 107 SCRA 538 [1981]; Inciong vs. De Guia, 154 SCRA 93 [1987].

[22] Canon 1, Rule 1.01, Code of Judicial Conduct.

[23] Heading 22, Canons of Judicial Ethics.

[24] Rollo, vol. 1, 497-498.

[25] Report, 24.

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