

EDUARDO R. SANTOS, COMPLAINANT, VS. HON. MANOLO L. MADDELA, RESPONDENT.

Adm. Case No. 111. November 20, 1972

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

Two administrative complaints were filed by Eduardo R. Santos, a practicing lawyer of Lucena, Quezon, against respondent Hon. Manolo L. Maddela, Judge of the Court of First Instance of Quezon province.

In the first complaint, filed on January 10, 1967, complainant alleges, among other things, that in Criminal Case No. 14673 of the Court of First Instance of Quezon, entitled "People v. Fernando Tan," respondent Judge, in connivance with the accused and his counsel, caused the transfer of said case from Branch I, where it was assigned, to Branch II where he presided; that after trying the case, respondent Judge prepared a draft of his decision, dated December 19, 1963, finding said accused guilty of arson, imposing on him a penalty of imprisonment and ordering him to indemnify the fire victims in the amount of around P300,000.00, with the accessory penalties provided by law, and to pay the costs (Annex "B"); that notwithstanding that notice to the parties was given that the decision would be promulgated on December 24, 1963, the decision was not promulgated as scheduled; that for reasons known only to him, respondent Judge prepared a new decision, dated April 25, 1964 which he caused to be promulgated on May 2, 1964 (Annex "C"), absolving the accused from any criminal or civil liability; that this complete turnabout of respondent in his decision is highly immoral, thereby rendering him unfit to continue in office as a judge and as a member of the bar.

Required to file his answer, respondent Judge, in his defense alleged: that Criminal Case No. 14673 was not really transferred from Branch I to Branch II; that he was authorized to try and decide the criminal case in question by virtue of Administrative Order No. 257 of the Secretary of Justice, dated July 5, 1963; that while it is true that he actually prepared a draft of a decision convicting the accused, his complete abandonment of said unpromulgated draft of the decision and subsequent rendition of another judgment acquitting the accused could not be unjust or improper as the same was arrived at by him after further mature deliberation, as justified by the evidence; that the implication of irregularity and profit arising therefrom is a mere fabrication of complainant; and that the filing of the complaint was part of complainant's scheme to wreck vengeance on respondent Judge.

On March 7, 1967, this Court issued a resolution referring the administrative complaint to Mr. Justice Magno Gatmaitan: of the Court of Appeals for investigation, report and recommendation.

On March 6, 1967, the same complaint filed a supplemental complaint against respondent Judge, containing two causes of action. In the first cause of action complainant alleged that in the petition for change of name of one Ramon G. Sia, alias Yu Kok or Ca Ping (Special Proceeding No. 3-B), respondent Judge, in connivance with petitioner and his counsel, caused the filing of said petition in the branch of the Court of First Instance in Baler, Quezon, presided by him, and not in the branch of the court in Lucena City where it should be filed because petitioner was a resident of Tayabas, Quezon; that respondent Judge granted the petition for change of name and

even went to the extent of declaring petitioner a Filipino citizen by birth and by election; that as a result of said decision the criminal cases filed against Ramon G. Sia, charging him with several violations of law as an alien, were either dismissed or dropped.

In his second cause of action, complainant alleged that one Lorenzo Ching Guan See, a Chinese, filed on September 29, 1957, a petition for naturalization (Naturalization Case No. 131) in Branch I of the Court of First Instance of Quezon, in Lucena, Quezon, presided by Judge Vicente Arguelles; that on March 31, 1960, Judge Arguelles rendered a decision denying Lorenzo Ching Guan See's petition for naturalization; that respondent Judge, in violation of the ethics of his office, transferred this case from Branch I to Branch II where he presided; that respondent Judge, acting on the motion for reconsideration filed therein, held hearings of the case even at night time, and on May 5, 1964 rendered a decision reversing the decision previously rendered by Judge Arguelles, thereby granting Philippine citizenship to Ching Guan See.

Hence, in his second complaint, complainant prayed that respondent Judge be disbarred and be dismissed from office as a Judge of the Court of First Instance.

After respondent Judge had filed his answer to the supplemental complaint, this Court also referred the supplemental complaint to Mr. Justice Gatmaitan for investigation, report and recommendation, along with the first complaint that was previously referred to him.

On October 12, 1967, Mr. Justice Gatmaitan submitted to this Court a 43-page report of his investigation, wherein he makes a thorough analysis of the evidence, and he recommends that no disciplinary action be taken against respondent Judge.

- Mr. Justice Gatmaitan finds that the charges embodied in the first complaint were not proved as would justify disciplinary action against respondent Judge. The report of Mr. Justice Gatmaitan states that the criminal case against Fernando Tan (Criminal Case No. 14673) was initiated by a complaint filed on January 30, 1961 before the City Court of Lucena City, charging said Fernando Tan of arson, allegedly committed on December 28, 1960; that the accused waived his right to the second stage of the preliminary investigation, and so the case was forwarded to Branch I of the Court of First Instance of Quezon at Lucena City, presided by Judge Vicente Arguelles; that upon arraignment Fernando Tan pleaded not guilty; that subsequently the accused asked for reinvestigation of the case, and Judge Arguelles granted the motion for reinvestigation. The Provincial-, Fiscal, after conducting the reinvestigation, arrived at the following conclusion:

"It is unbelievable that Fernando Tan could have been seen pouring gasoline inside and around the walls of said Hong Kong house and then kindled the samfe." (p. 119, record)

The Provincial Fiscal, however, did not file a motion for dismissal of the criminal case, and so the defense filed a motion to dismiss, but due to the opposition of the City Fiscal, on

September 7, 1963, Judge Arguelles denied the motion to dismiss and set the hearings of the case for October 7, 8 and 9, 1963. It appears, however that the clerk of court notified the parties that the hearing had to be postponed until further assignment because of the illness of Judge Arguelles.

The record shows that on July 5, 1963, the Secretary of Justice issued Administrative Order No. 257, as follows:

"In the interest of the administration of justice and pursuant to the provisions of Section 56 of Republic Act No. 296, as amended, the Honorable MANOLO L. MADDELA, District Judge of Quezon Province and Lucena City, Branch IV, is hereby authorized to hold court in Gumaca and Lucena City, beginning September 16, 1963, or as soon thereafter as practicable, for the purpose of trying all kinds of cases and to enter judgment therein."

Complying with the aforequoted administrative order, respondent Judge proceeded to Lucena City.[1] Upon his arrival at Lucena City respondent Judge asked the Deputy Clerk of Court what cases were ready for trial, and when informed that among the cases that were in the calendar was the criminal case against Fernando Tan, the hearings of which had to be cancelled on account of the illness of Judge Arguelles, respondent Judge instructed the Deputy Clerk of Court to reset the hearings as previously scheduled. It cannot be said, therefore, that respondent Judge, in connivance with the accused and his counsel, transferred Criminal Case No. 14673 from Branch I of the Court of First Instance of Quezon to Branch II, because Administrative Order No. 257 did not definitely specify the salato which respondent Judge would be assigned, but was simply "authorized to hold court in Gumaca and Lucena City...for the purpose of trying all kinds of cases and enter judgments therein." In this connection, Mr. Justice Gatmaitan, in his report, says:

"Now, once again, if defense or accused himself had been shown to have approached him to take over the case, perhaps this would merit some attention on the question of propriety, but there is no evidence of that; what is in the record is that upon arrival in Lucena City, he just started hearing cases of all sorts, for both Branches I and II, but sitting in Branch II; tsn. 1:64-67; Exhs. 7, 8, 9; when he heard Branch I cases, he utilized personnel of Branch I, when he heard cases for Branch II, he availed of personnel of Branch II, tsn. 1:68; so that as to this case of Fernando Tan, pertaining to Branch I, when upon arrival in Lucena City, he was informed that such and such cases were already set for hearing, this case previously set for October 7, 8, 9 and 10, 1963 by the Hon. Judge Vicente A. Arguelles, who by then had already become sick and was on leave so that said hearing had been cancelled upon notice to that effect by the Clerk of Court, Respondent just ordered that it be heard just the same on the dates already specified in the original notice of hearing; in the absence of evidence that Respondent as has been said, had been immorally approached by counsel or accused for the purpose, not impropriety but industry was shown by Respondent in doing what he did, besides, trial had not yet begun at all; so that it was an initial hearing on the merits, and Respondent was in the correct position to hear and finish. He heard it on the dates mentioned, and on posterior dates, namely 28 and 29 and 30 October, 1963, and he finished it on that date, and the record will show that he held trial even at night up to midnight; this again in the absence of evidence of connivance, was not impropriety but dedication; and the fact that as has been said, a few pages back, his testimony that he had been hearing cases at night as a practice to dispose of the backlog being sustained not only by his testimony, tsn. 11:240 to 241, but Exh. Supp. 5-5-5 to 5-5-5-H, would show that he had done nothing wrong by trying to finish the trial as expeditiously as possible."

Regarding the charge that respondent Judge had prepared a decision finding the accused guilty &nd had instructed the Clerk of Court to promulgate the decision, but that the decision was not promulgated, and that later on respondent Judge prepared another decision acquitting the accused and had the decision of acquittal promulgated, the Justice-Investigator made a finding that respondent Judge had indeed prepared a draft of the decision of conviction, but that he was justified in changing his decision. In this connection, Justice Gatmaitan says:

"and on 18 December 1963 before leaving Lucena he had told the Clerk of Court to set the date for promulgation, which the Clerk did, for 24 December 1963, but now it turns out that just a few days later, he sent his stenographer to have the promulgation cancelled, and no sentence was promulgated on 24 December, 1963; and in the meantime, he had the record with him, in Baler, and we next see that from there, he ordered the setting of promulgation, and it was set by the Clerk of Court in Lucena on 28 April 1964 for 2 May 1964, and on this later date, sentence was read, that:

'Around the testimonies of prosecution witnesses Felino Roxas, Abelardo Bago, Constancio Cusi, Luisa de Leon Pagsuyuin, Alberto Marluza, Felimon Ranses, Jr., Narciso Malaluan and Anacleto Alcala, revolves and is predicated the theory of the prosecution. These testimonies consist of two classes of evidence. The testimony of Felino Roxas, the supposed eyewitness, as direct evidence and the testimonies of the other witnesses for the prosecution as circumstantial evidence.

'Speaking of the testimony of witness Felino Roxas, the supposed eyewitness, the same is not only inherently improbable but unnatural. His testimony was contradicted by his own demonstration in the courtroom when asked to do so by the court. The testimony of this witness was also contradicted by the testimonies of prosecution witnesses Cusi and Alcala. Besides, this witness executed two contradictory affidavits, the execution of which were not satisfactorily explained. On the contrary, when this witness tried to explain his conflicting affidavits, he created, the more, a doubt in the mind of the court as to his credibility and reliability. Aside from this, the testimony of this witness was never corroborated. If this witness is denied of integrity, stripped of coherence and denuded of veracity, it will readily be seen how flimsy has been the basis of the prosecution and how erroneous the theory which the prosecution has sought to establish by this piece of evidence.

'Speaking of the theory of the prosecution, based on circumstantial evidence (testimonies of prosecution witnesses Bago, Cusi, Pagsuyu, Marluza, Ranees, Malaluan and Alcala) it is very patent that these pieces of circumstances although relevant, are not so closely linked together as to form a combination of all circumstances to produce a conviction under the set of circumstantial evidence presented in the case at bar, the court has to stretch its imagination and pretend as proved other missing facts from which the inferences are derived and proved. The set of circumstances proved by the prosecution in the case at bar are not clear and conclusive and are not sufficient to overcome the presumption of innocence and show, beyond peradventure of doubt, that the accused and no other committed the crime charged.

'While the defense of general denial and alibi interposed by the accused are weak, the prosecution need not rely on the weakness of the defense but should rely on the strength of its own evidence to prove the guilt of the accused beyond reasonable doubt which is wanting in the case at bar. Neither should the prosecution expect the court to stretch its imagination to picture as proved, facts that were not so proven during the trial or for the court to infer imaginary facts from facts proved. It is a fundamental guide in criminal prosecution that the prosecution stands or falls upon the theory of the prosecution and not upon the inference and presumptions that may arise after the prosecution's theory has been disregarded.

'In the prosecution of a criminal offense, it is necessary that the very essential element of the crime be proved. This rule especially applies when the accused is being tried for the purpose of securing his conviction. In the case at bar, the prosecution failed to prove the guilt of the accused beyond reasonable doubt, (pp. 294-296, Folder No. I; pp. 13-15, Exh. H)'

"Now, then as the original draft for conviction had been with him in the meantime, and the evidence is not at all clear on how it came to be attached to the record and an examination of the draft would show that it indeed was a draft, and as such could not be promulgated, this can only mean that indeed, it was a tentative conclusion subject to change so to speak. But why did he have to change? According to Respondent as already stated above:

'A

When I was hearing this case, I heard this case in the first place from the first witness to the last witness, meaning to say from the beginning of the case to the time that the parties submitted the same for decision. As I was hearing this case, I was looking into the almost twenty (20) witnesses for the prosecution; also observing them as I use to do. Most of these witnesses were telling their plight, their losses. Then one witness had two (2) affidavits which I disregarded because I believed then that even to us, witnesses made contradictory statements. At that time, I disregarded the two affidavits of his. So, I went hearing the string of witnesses for the prosecution and I was inclined that the accused was guilty because as the evidence was presented during the trial and taking into account the evasiveness of the accused and almost arrogant in the courtroom, I was inclined to believe that he was guilty. So, after the trial and under this impression, I dictated my decision for conviction which is now the draft attached to the record of the case marked as Exhibit G. That is how this draft was made.

X X X

X X X

X X X

'A

This draft of the judgment for conviction referred to as Exhibit G was not prepared altogether at one time. It was prepared, rather dictated by me to the stenographer as I see time and opportunity to dictate or finish a case. Particularly, that is if I have the opportunity I just dictate following my trial notes, so that when I finished this draft as given to me for correction and I was correcting it. I thought this could be the final form already of the decision because at that moment what was uppermost in my mind was for conviction. So, I tried to go over, as it is my nature to go over my decision and especially the decision of conviction. I take the point that as I see it clearly and comparing it, I came to examine the evidence on which that judgment of conviction was rendered by me. So, believing that it was almost final and ready to be actually placed in final form because the corrections were just simple, I instructed Mr. Tuazon as I usually do, I gave this case to him for promulgation of judgment. Then, I was in my chamber when I was going over the draft when I received a long distance telephone that my wife, if I am not mistaken, was rushed to the Marian Hospital. So, I told my stenographer to bind this case and the other cases submitted for decisions and to bring to my car because I was leaving right away. So, I left right away with these records and all the records submitted for decisions and rushed to the bedside of my wife who was then stricken ill and brought to the Marian Hospital and a certificate of the hospital...

X X X

X X X

X X X

'A

Before leaving the courtroom, I told the Clerk of Court and deputy clerk of court and my other personnel that I was leaving and inasmuch as there is no more calendar beginning the 20 of December, I would be returning to Baler where I was residing and to spend my Christmas there also and so, I left the office and came direct to the Marian Hospital where I reached my wife. While at Marian Hospital, I slept one night and I was going over the record of this case again. And in my trial notes because I wanted this to be finished taking into account that I instructed the Clerk of Court to issue the Notice of Promulgation, going over my trial notes in the yellow pad, I saw a notation there which says 'see demonstration' particularly on the first witness inasmuch as I was in the hospital, I don't seem to remember clearly the demonstration on the notes, so, I brought the case. After bringing my wife, I brought the cases with me and I went to Baler direct and because of this intended to go over the notes. So, upon arrival, I sent for my stenographer Armando Ignacio to inform Mr. Tuazon that the promulgation will be postponed because the decision is not yet final. So, that decision was kept because I wanted the stenographer of Judge Arguelles who was not with me at Baler. He was left in Lucena.

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X X X

X X X

'WITNESS -

And it was only when I went to Lucena in April, 1964 that I was able to ask the stenographer to read to me that particular demonstration and that demonstration turned everything because the demonstration of the witnesses according to the stenographer while reading the notes to me made very clearly how incredible that particular witness was. Then, it occurred to my mind that the witness has two affidavits previously upon which I find as ordinary inconsistency because his credibility then was being weight (sic) by me highly. With the demonstration that was read to me by the stenographer thru the stenographic notes it was planted and inculcated into my mind that what the witness and only one witness, supposed eyewitness for the prosecution, Felino Roxas declared were altogether improbable, impossible. As a matter of fact, measurements of the opening of the door were done in court as per stenographic notes and that reminded me of what demonstration was had in court. Then, I weighed over and over again the testimony of this witness and I found out that while there were almost twenty (20) witnesses, he was the only eyewitness as majority of the witnesses were claimants. And it came into my mind that if this witness will be discredited, the prosecution's evidence or the case for the prosecution fails. So, I had to go over and over and taking into account that the credibility of a witness is very material point in a case, especially for conviction and he is the only eye-witness and gave and resolved the doubt in favor of the accused. So, that is the change of the decision." (tsn, pp. 1:69-75)

"And his version is really sustained by the record, that the alleged ocular witness to the arson committed by Fernando Tan had originally not made a statement to but did so several days after the fire, accompanied by the Mayor; and then sometime afterwards, he recanted in an affidavit and made the recantation before the authorities, Exh. 2 in said Criminal case, p. 413 thereof..."

X X X

X X X

X X X

"Stated otherwise, with the previous turnabout of the only ocular witness and the duplicity of his character shown in cross-examination it was not a difficult matter for Respondent to avail of it to change his original judgment; if to this be added that it was also true that said witness more than that, during the course of an experiment made in open Court, was found then and there to have been incapable of discerning what a person would have been doing at the distance such a person was from him, as allegedly Fernando Tan was when the latter according to him, set fire to the Hongkong House...the Respondent it will be seen had all the justification to choose to finally disbelieve him, and with that as basis, had all the justification to acquit.

"Did Respondent commit an impropriety in so doing? If he had done that because of favors received or promised, if he had done so because of approaches, friendship, close connections, with Fernando Tan or the latter's counsel, certainly Respondent had done wrong; but the evidence on this is bare. And so it is that what remains is that Respondent prepared a decision of conviction in December and made definite findings justifying a conclusion of guilt there, and a few months afterwards, in April wrote a decision, finding the contrary. What he has shown is at first glance a clear exercise of mental acrobatics. On its face, this was bad; on further reflexion, casting aside all suspicion which it is the duty of this Investigator to do, perhaps to conclude that he should not have done what he did even if afterwards he had in good conscience arrived at the final finding of innocence or in the least, absence of proof beyond reasonable doubt, and because he had

already dictated a first draft he should not for fear of being punished for that, change his tentative decision, — this could lead to worse results. Because the certainty of criterion as to guilt or innocence of an accused can reside only in the conscience of the trial Judge,[2] and conscience is the most changeable of rules." [3]

- Regarding the first cause of action in the supplemental complaint, it appears that Ramon G. Sia, alias Yu Kok, filed a petition for change of name in the branch of the Court of First Instance of Quezon in Baler, presided by respondent Judge, on January 2, 1964 (Special Proceeding No. 3-B). Against this petition, the Assistant Provincial Fiscal of Quezon, in representation of the Solicitor General, filed an opposition based mainly upon the ground that the petitioner is not a Filipino citizen, because he has not shown in his petition that he has elected Philippine citizenship right after reaching the age of majority.

At the hearing of the petition, petitioner Ramon G. Sia presented his birth certificate showing that he was born in Tayabas, Quezon on May 9, 1928; and his baptismal certificate showing that he was baptized in the Roman Catholic church of the same municipality in 1930. He presented evidence that since birth he had been a bona fide resident of Tayabas; that his father, Haw Lay, was granted Philippine citizenship in Naturalization Case No. 40 of the Court of First Instance of Quezon on October 30, 1950, and that his father took his oath of allegiance on November 12, 1952; that on the basis of the naturalization of his father, he elected Philippine citizenship and took his oath as a Filipino citizen on February 23, 1953; that since then he had exercised his right of suffrage; that he was appointed a special agent of the Criminal Investigation Service of the Philippine Constabulary (Exhibit G); that he was a member of the Philippine Veterans Legion (Exhibit N); and that he was an agent of the Committee on Anti-Filipino Activities (Exhibit P).

The Fiscal did not present evidence during the hearing but relied solely on his opposition that since Ramon G. Sia did not elect Philippine citizenship when he was of the age of 21 but only exercised his right of election almost four years after he attained the age of majority, his election was void and illegal, and so the petition for change of name should be denied.

On June 29, 1964, respondent Judge rendered his decision, granting the petition for change of name, the dispositive portion of which reads as follows.

"Wherefore, there being satisfactory proof that the petition has been published in accordance with the Rules of Court and the facts alleged in the petition have been substantiated and proved, coupled with the fact that the petitioner has established his claim to be a Filipino citizen by birth and by election, there is proper and reasonable cause for changing his name and surname from Ramon G. Sia to Ramos S. Reyes, which is hereby ordered, the Local Civil Registrar of Tayabas, Quezon, is likewise ordered to make the necessary change in his record."

The propriety of respondent Judge's decision is being assailed by complainant on the grounds: (1) that petitioner Ramon G. Sia, being a resident of Tayabas, Quezon, should have filed his petition for change of name in the branch of the Court of First Instance of Quezon at Lucena City and not in Baler, and respondent Judge should not have taken cognizance of said petition, pursuant to Administrative Order No. 295 issued by the Secretary of Justice on August 27, 1964; (2) that since the petition is only for change of name, respondent Judge should not have declared in his decision that petitioner Ramon G. Sia is a Filipino citizen by birth or by election; and (3) that had respondent Judge exercised due diligence, he could have examined Naturalization Case No. 40 where, on page 22 of the record, Ramon G. Sia has admitted in an affidavit which he executed on October 13, 1950 that he was a Chinese and was issued a landing certificate on July 5, 1933.

We find that the first imputation of irregularity against respondent Judge is not tenable. Administrative Order No. 295 of the Secretary of Justice invoked by complainant, which provides, among others, that cases coming from the municipality of Tayabas should be filed at Lucena City, was issued on August 27, 1964. It appears, however,

that the petition for change of name of Ramon G. Sia was filed in the branch of the Court of First Instance in Baler on January 2, 1964, and was decided by respondent Judge on June 29, 1964. Hence, the aforementioned administrative order could not have been violated because it was not yet existing at the time the petition for change of name was filed and decided. The law that should be reckoned with regarding venue of the petition in question should be Section 1, Rule 103 of the new Rules of Court, which provides: "A person desiring to change his name shall present the petition to the Court of First Instance of the province in which he resides, or, in the City of Manila, to the Juvenile and Domestic Relations Court." [4] During the hearing of the petition, Ramon G. Sia, when asked by the fiscal why he filed his petition in Baler when he was a resident of Tayabas, explained that he did so because he had business transactions at Baler, and that he thought he would be staying there for a long time. And in this connection respondent Judge explained that at the time the petition was filed in Baler there were more than two thousand pending cases in the two branches of the Court of First Instance in Lucena City. Under the circumstances, We see no legal impediment for respondent Judge to hear and decide the petition in question.

Regarding complainant's charges that respondent Judge should not have declared in his decision that petitioner Ramon G. Sia is a Filipino citizen by birth and by election because the petition is only for a change of name, and that respondent Judge should have examined the record of Naturalization Case No. 40 where petitioner Ramon G. Sia admitted in an affidavit that he was a Chinese, Mr. Justice Gatmaitan makes the following findings and observations:

"As to the point that he took it upon himself to declare petitioner in the course of his decision to be a Filipino citizen, once again, there should be no question that this at first glance was uncalled for, because the petition was only for a change of name, and Respondent could have foreseen the consequence of such a declaration, but on the other hand, it is also correct as Respondent points out, that the Fiscal himself placed the question of petitioner's citizenship as a side issue, when in his opposition the Fiscal averred that:

"That petitioner have not shown in his petition that he has elected Philippine citizenship right after his reaching the age of majority, being qualified to do so under the laws and the Constitution; and there being no mention made of the specific date when he made such election, hence petitioner RAMON G. SIA can not be considered a Filipino citizen"; Exh. Supp. CC;

"As to the point that the fact of the matter was that Ramon G. Sia was a Chinese, so much so that he had an extant Landing Certificate, Exh. T, Supp. F, Folder No. 2, and that Respondent could have easily if he had only examined the records pertinent, noted that the very Exhibits B-2 and B-3 of petitioner Ramon G. Sia stated that his alleged father Jao Lay had been naturalized in Case No. 40 of the Court of First Instance of Tayabas, and so if Respondent had only studied Case No. 40, he would have seen that on page 23 thereof, there was an affidavit of Ramon G. Sia no less manifesting that he had a Landing Certificate as an alien, — it must be admitted that the failure of Respondent to have examined Naturalization Case No. 40 certainly had led to the anomalous situation, his having granted the petition for change of name of Ramon G. Sia, declaring further in his order that said petitioner was a Filipino when he truly was an alien, this on the one hand. On the other, the fact can not be overlooked that said Naturalization Case No. 40 was not in Baler but in Lucena, there archived since its termination on 30 October, 1950, or some 14 years before Respondent heard the petition for change of name on 29 June, 1964; just the same, perhaps, if Respondent had only exercised some extraordinary diligence, he could have sent for the record in Lucena and having read it, would have found the affidavit referred to of Ramon G. Sia; but the question can easily be raised, whether Respondent had the authority under the Rules to do so, and even if so, whether in turn, it would have been such an act that could have been an impropriety; because neither should it be overlooked that the expediente of Naturalization Case No. 40, specifically, page 23 thereof containing the affidavit of Ramon G. Sia, not having been presented in evidence in the hearing of the petition of change of name by the Fiscal, who probably should have been the one who should have taken such pains to protect the

Government, — for Respondent to have done that for the Fiscal would have been possibly not only against the Rules, — for the only way for Respondent to do that would have been to take judicial notice of the contents of Naturalization Case No. 40, and the jurisprudence apparently bars him from doing so;

'23. Court proceeding. - In a case on trial, the court will take judicial notice of its record and of the facts which the record establishes, including the record of the preliminary investigation in a criminal case before a Court of First Instance, but in the adjudication of said case courts are not, as a general rule, authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in same court, and notwithstanding the fact that both cases may have been tried or are actually pending before the same judge.' pp. 41-42, Vol. 5, Moran, Comments on the Rules of Court, citing Municipal Council of San Pedro, Laguna, et al. vs. Colegio de San Jose, et al., 65 Phil. 318;

but even so, even were Respondent to have been said to have acted correctly just the same if he had taken such pains, there would have been no question then that by that other extraordinary procedure, he would have taken it upon himself to do the work of the Fiscal, digging up evidence against petitioner, being only a Judge, perhaps it would have been then that his actuations could have been impugned, his conduct assailed, his motives misinterpreted and so on; the point is that not Respondent here, was the one remiss in the performance of his duties but another one. Of course, once again, if the evidence had shown that Respondent had had close connections with petitioner Ramon G. Sia, or his counsel, insomuch that reasonable grounds can be entertained to conclude that there had been a conspiracy between both petitioner, and his counsel on one side, and Respondent and the Fiscal on the other, it would be another matter; but the evidence on this if at all is contained only in the version of complainant that:

'Q

Now, you stated that respondent here could have knowledge of this nationality of the Chinese applying for a change of name in Baler. Why did 'you say so?

A

In the first place, I am sorry to say that the lady counsel of Yu Kok Mrs. Norma Chong Lo Sia together with her husband, Cesar Sia, had been frequenting the place of herein respondent.

Q How did you come to know about this visits of the spouses, counsel Norma Chong Lo Sia and her husband?

A I had been also attending with respect to that particular point.' tsn. 11:45;

which was denied by Respondent,

'Q

The complainant testified here that prior to the promulgation of this decision on June 29, 1964, the lawyer who appeared before you a certain Atty. Norma Chong Lo was frequenting your house at Lucena. What can you say as to that?

A

That is altogether a lie; first, because when I heard this case, I was a Judge in Baler and I had no house in Lucena. Everytime I was sent to Lucena, by the Department I stayed in the Brillantes Hotel and it was only sometime in the early part of September, 1964 long after the decision had been rendered that I rented the house of one Atty. De la Puerta. That house has been reserved by me sometime in August, 1964 but actually occupied by me in September, 1964.

Q This case was filed on January 2, 1964. At the time of the filing of this case, where were you?

A

If I remember right, I was at Lucena City. I was rather at Casiguran, Quezon when I swore to office the newly elected Municipal Mayor and municipal officials of Casiguran, Quezon.

Q

During the hearing of this case, did you know of any case pending against Ramon Sia in any agencies of the government?

A No, sir, there was none.' tsn. 11:230-231;

but even if it were true as Complainant says that the counsel for petitioner and her husband had frequented Respondent's house, it would be going too far to hold Respondent as having proceeded improperly because of it; no Judge probably would have the daring to order an attorney to get out of the Judge's house if the attorney visits the Judge; what would have been wrong and evidence of connivance would have been if it were the Judge who had visited, which complainant never claimed the Judge had done."

- Regarding the second cause of action contained in the supplemental complaint, the evidence shows that on September 28, 1957 a petition for naturalization was filed by one Lorenzo Ching Guan See in Branch I of the Court of First Instance of Quezon, at Lucena City (Naturalization Case No. 131). On March 31, 1960, Judge Vicente Arguelles rendered a decision denying the petition upon the ground that Lorenzo Ching Guan See had not "sufficiently mingled socially with the Filipinos." On August 18, 1960, petitioner Lorenzo Ching Guan See filed a motion for reconsideration, to which motion the Provincial Fiscal of Quezon offered no objection. This motion for reconsideration, not having been acted upon for three years because Judge Arguelles was sick, the petitioner, on October 14, 1963, filed a motion to resolve. At that time respondent Judge was already hearing cases in Lucena City pursuant to Administrative Order No. 257 of the Department of Justice, and so he had to act on the motion because Judge Arguelles was sick. However, because the record of the case was not with him, nor with the Clerk of Court, respondent Judge ordered the motion for reconsideration to be set for hearing on October 23, 1963, directing at the same time the Deputy Clerk of Court to locate the record. The respondent Judge held hearings on the motion for reconsideration. On May 5, 1964 respondent Judge rendered a decision granting the motion for reconsideration and decreeing the naturalization of Lorenzo Ching Guan See as a Filipino citizen. One year after the rendition of the decision, complainant Atty. Eduardo R. Santos, in his capacity as a citizen of the Republic of the Philippines, filed an opposition against the oath-taking of Lorenzo Ching Guan See as a Filipino citizen,

which opposition was moved by the Fiscal to be stricken from the record because of lack of personality on the part of complainant to file the opposition, but the motion was denied by respondent Judge. However, respondent Judge, in his order of denial of the opposition, suggested to complainant to take up the matter with the Solicitor General who was the proper party who could oppose the oath-taking of petitioner Lorenzo Ching Guan See. At the hearing for the oath-taking, on November 5, 1966, after the two-year period from the date of the decision had elapsed, complainant Atty: Eduardo Santos testified in court against the oath-taking. Several hearings on the oath-taking were held, memoranda were submitted by the parties, and on January 10, 1967 respondent Judge approved the oath-taking. The Solicitor General filed a notice of appeal, but later withdrew the appeal stating that

"Upon a sedate study of the case, the undersigned counsel having arrived at a consensus that the interests of justice demand withdrawal of the appeal"

Lorenzo Ching Guan See took the oath of allegiance on March 18, 1967.

Regarding this matter, Mr. Justice Gatmaitan, in his report, says:

"...now the complaint of complainant is that Respondent had completely defeated the purpose of Rule 22, Sec. 7 concerning the raffle of cases

'by simply picking up this particular case on the guise of resolving a pending motion he renders a new decision reversing the former decision of Judge Vicente Arguelles in the same case.' p. 279, Rollo; p. 7 Memorandum of Complainant;

and that Respondent exhibited unusual interest by 'holding sessions even up to the early morning';

against this, Respondent declares that, he took cognizance of the motion for reconsideration under the Administrative Order of the Department of Justice for him to try cases of all kinds at Lucena City already aforementioned; and that since the case was in the cabinet of Judge Arguelles after Respondent had issued an order of 25 October, 1963, he even visited Judge Arguelles at the San Juan De Dios Hospital and was told by the latter that there were motions in his cabinet for resolution and for him to act on those motion because

'I am sick';

x x x

x x x

x x x

"Since the decision of denial of the Hon. Vicente A. Arguelles of 31 March, 1960 was based on the finding that petitioner Ching Guan See had not shown that he had sufficiently mingled with Filipinos, but he filed motion for reconsideration and the Provincial Fiscal offered no objection, there was nothing wrong in hearing the same on its merits; and as it was pending and remained pending for hearing and resolution up to 14 October, 1963, or for a period of almost three (3) years, it was correct for said petitioner to file a motion to resolve as he did on 14 October; since at that time, the Hon. Vicente A. Arguelles was sick, and herein Respondent Judge had arrived in Lucena and was authorized under Administrative Order No. 257 to hold court there; when therefore the motion for reconsideration was brought to the attention of Respondent, his conduct thereupon, already related a few pages back would not appear to be improper, in the absence of proof of which there is none, that he had accepted to hear it for an illicit reason or under illicit appearance. The point that this actuation of Respondent had defeated the law on raffle because said Naturalization Case was in Branch I while Respondent properly sat in Branch I has been given an explanation on by Respondent,

...it can be seen from the record when I was hearing these cases, I was sitting as Judge of Branch I and I was using his personnel, the stenographer, interpreter. When I tried said cases, I sat in the same place because I avoided going up and down the courthouse. I heard also the cases pertaining to the Sala of Judge Maglanoc using his stenographer, and interpreter. So, there was no transfer. I was hearing the cases of Branches I and II,' tsn. 1:68;

and besides it had better be remembered that the law on raffle was incorporated in the Rules only since 1 January, 1964, and Respondent heard the motion on and from 18 October, 1963. As to his having held night sessions, this would have shown some special interest if it had been the only case by him heard at night, but an examination of the evidence would sustain Respondent's testimony that he practiced holding sessions at night to dispose of cases:

'...when I first arrived at Lucena in 1963, the President of the Quezon Bar Association in the person of Atty. Zepeda approached me and broached to me the problem of the members of the Bar saying that for years the cases had been pending in court. I told him: 'We will work; however, if the parties and counsel agree to a speedy trial, I am willing to sacrifice.' From that time on I began to hear on September 17, 1963 up to the present all kinds of cases morning, afternoon and evening because of the representation of the President of the Bar Association of Quezon at Lucena.

Q

It was intimated here by the complainant that you gave importance to the case or cases, object of these charges to show that you heard these cases in the evening. Will you tell us if these are the only cases that you heard in the evening during that period that you were in Lucena?

A

These cases, object of the complaint now of the complainant if I have heard them at night were for purposes of accommodation first the important cases like criminal cases. As a matter of fact, as could be shown from the Minutes of the records of Criminal Cases Nos. 12933 and 14775, People of the Philippines versus Romeo Paz, I was hearing these cases in the morning, afternoon and evening and this Minutes will show that these cases were heard on September 25, 1963 at 7:25 in the evening.

'ATTY. AGCAOILI-

Witness referring to a certified copy of the Minutes which we respectfully ask that it be marked as Exhibit 5-5-5 and the rest of the other Minutes, certified copies be marked as Exhibits 5-5-5-A, 5-5-5-B, 5-5-5-C, 5-5-5-D, 5-5-5-E, 5-5-5-F, 5-5-5-G and 5-5-5-H.

Q Where these cases now appearing in these exhibits the only cases you heard at night time?

A

If my memory will not fail me, I tried more than five hundred (500) cases night trial. We began in the morning, then resumed in the afternoon and went up until the wee hours of the morning, both civil and criminal cases and I could not be supported by the certified copies of the minutes because it will take time for the one incharge of the archives to bring out all these voluminous records from the archives not to mention that mandamus case heard up to 1:00 o'clock in the morning where the undersigned ordered the closure of the night clubs in Lucena.' ten. 11:239-241;

is sustained by Exh. 5-5-5-et. seq.; and if there be any doubt as to Respondent's correct actuations, this can be clinched by the fact that the Solicitor General himself withdrew his appeal from Respondent's final order."

In connection with the charge in the original complaint that respondent judge had prepared a draft of a decision finding the accused Fernando Tan in Criminal Case No. 14673 of the Court of First Instance of Quezon guilty of arson but later rendered a judgment acquitting him, We agree with the view of the Investigator, Mr. Justice Gatmaitan, that the criterion as to the guilt or innocence of an accused is a matter of conscience on the part of a judge. As observed by this Court in the case of *People vs. Edpedes*,^[5] speaking through Mr. Chief Justice Cesar Bengzon, "It happens sometimes that a judge after preparing a 'draft' of a decision acquitting or convicting a defendant, upon further deliberation afterwards signs and promulgates another decision convicting or acquitting the defendant." And in the case of *People vs. Lizardo*^[6] this Court ruled that where a decision in a criminal case has not yet been promulgated the trial court has lawful authority to set it aside and render another. And so in the present case, in the absence of proof— as pointed out by the Investigator, and which We confirm — that the actuation of respondent Judge was motivated or impelled by improper or ulterior motives, said actuation can not properly and justly be considered a misconduct in office as a judge.^[7]

However, in Our examination of the record of Criminal Case No. 14673 of the Court of First Instance of Quezon,^[8] We have noted that the draft of the decision, in question, is sewed or attached to one of the "rollos" that form part of the record of said criminal case. The draft is not attached to the main "expediente" of the case where the decision that was promulgated is found. It is attached to another "rollo" together with the documentary evidence (exhibits) that were presented in the case. In his testimony, respondent Judge stated that as far as he could remember the said draft was clipped together with his trial notes but were not attached to any of the "rollos" of the case, and he could not explain how it happened that said draft came to be attached to one of the "rollos" of the case (TSN., pp. 75-76). By the manner the draft is attached to the "rollo," it is apparent that the same was sewed to the "rollo," after the other documents were attached thereto. It can be concluded that respondent Judge did not bother to keep this draft, and that someone got hold of it and had it sewed to the "rollo." The complainant stated in his testimony that sometime in July 1966 — more than two years after the decision in Criminal Case No. 14673 was promulgated — an employee of the office of the Clerk of Court informed him that the case of Fernando Tan "had two existing decisions, one for conviction and another for acquittal," and that upon his examination of the record of the case he found that there were really two decisions, one a draft, dated December 18, 1963, and the other, dated April 23, 1964, the signed one which was promulgated (TSN., 4). We see in this circumstance that respondent Judge was careless in the care of a vital paper connected with the case that was tried and decided by him. The draft of a decision is a confidential, or classified, document, the contents of which should be known only to the judge and to the trusted person or persons assisting him in the preparation of the decision. Once the decision has been finalized, the draft should either be destroyed or kept in such a way that no person aside from the one assisting him in the preparation of the decision can see it, thereby avoiding any cause for suspicion or misgiving on the part of any one who may find out that what appear in the draft are different from what appear in the decision as promulgated. It can happen that if the draft of the decision is not properly kept a premature disclosure

of a decision may take place; or if the draft is found after the decision had been promulgated, an unfavorable impression regarding the actuation of the judge may be formed in the mind of some people who might find out that the decision as promulgated is different from the draft of the decision. Public interest demands that the actuations of a judge should be above suspicion in order that the faith of the citizens in the administration of justice is not impaired. It should always be the overriding concern of a judge that he gives no cause for the people to lose faith in the administration of justice.

And so, while it was perfectly within the discretion of respondent Judge to disregard the draft of the decision that he had prepared and to write another one which was promulgated, We nevertheless hold that respondent Judge was wanting in the proper care of the draft that he prepared, and, for this, the Court admonishes him to be more cautious in the preparation of his decisions, thereby avoiding the possibility of a premature disclosure of his decisions or cause for doubt regarding his integrity as a judge.

Regarding the charge in the first cause of action of the supplemental complaint, in connection with the actuation of respondent Judge in the petition for change of name of one Ramon G. Sia, said respondent should have avoided making any pronouncement in his decision, granting the petition, "that the petitioner has established his claim to be a Filipino citizen by birth and by election." For the purposes of a petition for change of name, a finding or pronouncement regarding the citizenship of petitioner is not necessary. Under Rule 103 of the Rules of Court, the petition for change of name may be made by any person in the Philippines, including aliens who are residents of the Philippines.[9] Besides, Ramon G. Sia is not qualified to make an election of Philippine citizenship because under the Constitution only those whose mothers are citizens of the Philippines may elect Philippine citizenship upon reaching the age of majority.[10] The record shows that Ramon G. Sia was born of a Chinese father and a Chinese mother. The record also shows that when his father was naturalized on November 12, 1952, Ramon G. Sia was already of age.[11] While We agree with the Investigator, Mr. Justice Gatmaitan, that in granting the petition of Ramon G. Sia for change of name respondent Judge did so not for any immoral or illegal consideration, it is Our view, nevertheless, that the decision of respondent Judge evinces a failure on his part to keep abreast with the jurisprudence regarding qualifications and requirements that should be fulfilled by a person electing Philippine citizenship. The Court, therefore, also admonishes respondent Judge to be more familiar with the law and the rulings of this Court on matters relating to citizenship.

Regarding the charge in the second cause of action of the supplemental complaint, that respondent Judge reconsidered the judgment of Judge Vicente Argueiles denying the petition for naturalization of Lorenzo Ching Guan See (Naturalization Case No. 131 of the Court of First Instance of Quezon) and later rendered a decision granting the petition, We agree with the Investigator that respondent Judge had not committed any irregularity which would warrant disciplinary action against him.

IN VIEW OF THE FOREGOING, the Court resolves to admonish respondent Judge, as stated in this resolution, in so far as the charges contained in the original administrative complaint, dated January 5, 1967, and the first cause of action of the supplemental administrative complaint, dated March 6, 1967, are concerned; and to exonerate him of the charge in the second cause of action of the supplemental complaint.

Let a copy of this resolution be furnished the Secretary of Justice for his information.

IT IS SO ORDERED.

Ruiz Castro, Fernando, Barredo, Antonio, and Esguerra, JJ., concur.

Conception, C.J., and Makasiar, J., reserve their votes.

Teehankee, J., took no part.

Makalintal, J., is on official leave of absence.

[1] There are two branches of the Court of First Instance at Lucena City, Branch I, presided by Judge Arguelles, and Branch II by Judge Enrique Maglanoc, who was on sick leave.

[2] Filangieri, Ciencia de la Legislation, XXVI Ency. Jur. Esp. 399.

[3] La conscience est la plus changeante des regies. 35 C.J. 931."

[4] The new Rules of Court became effective January 1, 1964. Italics supplied.

[5] L-16535, April 29, 1961; 1 SCRA 1344, 1346.

[6] L-22471, December 11, 1967; 21 SCRA 1225, 1227.

[7] Superable vs. Escalona, Adm. Case No. 122-J, July 31, 1968; 24 SCRA 545, 549.,

[8] The complete record of Criminal Case No. 14673 was sent up to this Court by the Investigator, Mr. Justice Gatmaitan.

[9] Yu vs. Republic, L-20874, May 25, 1966, 17 SCRA, 253; Orig Hian Tin vs. Republic, L-20997, April 27, 1967, 19 SCRA 967.

[10] Par. 4, Sec. 1, Article IV of the Philippine Constitution.

[11] See Exhibit "D" in the record of-Special Proceeding No. 3-B of the Court of First Instance of Quezon, entitled "In the matter of the Petition for change of name of Ramon G. Sia" - which form part of the record of this administrative case. It appears in this document that Ramon G. Sia was born in Tayabas, Quezon, on May 9, 1928, being the child of Jao Lay (father) and Go Nang (mother) - both Chinese.

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