

**ROMULO D. JABON, COMPLAINANT, VS. JUDGE SIBANAH E. USMAN,
REGIONAL TRIAL COURT, BRANCH 28, CATBALOGAN, SAMAR,
RESPONDENT.**

A.M. NO. RTJ-02-1713. October 25, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court are the complaints filed by complainants Romulo D. Jabon and Plaridel D. Bohol against Judge Sibannah E. Usman, Presiding Judge of the Regional Trial Court, Branch 28, Catbalogan, Samar.

The facts of the case and the proceedings held are accurately summarized in the Final Investigation, Report and Recommendation submitted by Investigating Justice Renato C. Dacudao, to wit:

The allegations in the sworn statement dated August 31, 2001[1] of complainant Jabon are as follows:

- FOR GRAFT AND CORRUPTION.

When I appeared before his court to pursue my case for damages against Adolfo Ibañez (Civil Case No. 7082) he placed me under duress by requiring me to buy from him a set of earrings and ring for P40,000.00 in order for me to be able to testify ex-parte in the absence of defendant Adolfo Ibañez, despite notice and without formally asking for postponement on valid ground.

- FOR INCOMPETENCE.

He is unable to decide on time cases and matter submitted for resolution, thereby clogging the cases in his RTC Branch 28 permanently presided by him unheard and non-tried cases. The same is true in the cases he temporarily presides at RTC Branch 33 at Calbiga, Samar.

...

- FOR IGNORANCE OF THE LAW.

Judge Usman issued an order of preliminary injunction to stop the running of the period to redeem a property foreclosed when legally said period of redemption cannot be stopped by injunction, it being to lapse ipso facto after the expiration of the period of one (1) year from the date of registration of the certificate of sale, pursuant to Rule 29, Section 28 of the 1997 Rules of Civil Procedure.

- FOR DISHONESTY.

Judge Usman committed grave dishonesty when he bided (sic) in an auction sale conducted by the office of the Provincial Sheriff of Samar of properties levied in execution under the name of another person.

- FOR PARTIALITY AND SCANDALOUS BIAS IN THE CONDUCT OF HIS JUDICIAL PROCEEDINGS.

In the case of Dacaynos vs. Flordeliza, Civil Case No. 7275, he refused to issue a writ of attachment in favor of

plaintiff because defendant Danilo Flordeliza is his good friend and also his basketball playing chum.

Judge Usman wanted said case settled for P200,000.00 even if defendant Flordeliza have (sic) previously offered plaintiffs a settlement of P300,000.00 which plaintiff declined and rejected because plaintiffs' expenses alone in medication amounted to P300,000.00 already.

In another case filed by Alfonso Quilapio against a bus company wherein Judge Usman issued a writ of preliminary attachment against defendant bus company which plaintiff Quilapio settled amicably with the bus company at the time when Judge Usman was in Manila and a passenger bus of defendant was under attachment and impounded in the court premises, Judge Usman faulted plaintiff Alfonso Quilapio of unilaterally settling the case that resulted in the discharge of the attachment and eventually dismissal of the case without asking permission from Judge Usman, because according to him, he could have made money out of the release of the attachment as he was then in need of money because the bus company was then desperate to have one of its units released impounded on account of the attachment.

- FRATERNIZATION WITH LAW PRACTITIONERS AFFECTING THE DISPOSITION OF CASES IN THE COURTS HE PRESIDES.

Judge Usman has favored lawyers practicing in his sales (sic). He gets regular plane tickets from said lawyers to use in frequently going to Manila and elsewhere. He solicits building materials in the construction of the local Muslim mosque as he is said to be one of their ministers.

Records of cases involving his favored lawyers appearing in his court will prove how he uses his judicial powers to accommodate his crony lawyers.

- FOR ABSENTEEISM.

Records of cases with RTC Branch 28 from the time Judge Usman became its Presiding Judge as well as in RTC Branch 33 of the cases handled by Judge Usman ad interim will show and establish that he had been absent without notice, much less, justification, in the days and dates said courts issued subpoenas in the hearing of cases.

...

To this, respondent Judge filed a counter-affidavit dated November 28, 2001[2] vehemently denying the charges hurled against him, to wit:

- That I denied having sold any kind of gold to Mr. Romulo Jabon. I never have the occasion to talk to him. Atty. Plaridel D. Bohol, counsel for plaintiff Romulo Jabon, moved in open court that plaintiff, a resident of the United States of America, should be allowed to present evidence ex parte due to the unexplained absence of the defendant, Adolfo Ibañez, which I granted. He wanted that the case be decided immediately but I denied, and instead, allowed the defendant to present evidence. This is the only reason this complaint was filed against me. So, last hearing, I inhibited myself and transferred the case to the other sala;

- To boost my competence or judgment for the span of 18 years, none of my judgment or order has been reversed. I have no pending cases for decision. No single case has been decided beyond ninety (90) day period. I always see to it that if I leave my office in the afternoon, my table is clean, without leaving any assignment for the next day;

- The charge for ignorance of the law is not properly substantiated. Whether or not the complainant agreed to the order of the undersigned, only the Supreme Court can decide whether my judgments, as well as appreciation of facts in all cases are erroneous or illegal. So far, none yet had been reversed by the Supreme Court;

- The charge of grave dishonesty is not also properly substantiated. The undersigned refuted the charges of

grave dishonesty. Neither has the undersigned bidden in an auction sale nor directly or indirectly participated in any bidding, so far, among my employees, only Mr. Vito B. Liad bidden in an auction sale before another branch, RTC, Branch 29, not in my branch;

- In the case of Dacaynos versus Flordeliza, Civil Case No. 7275, the undersigned refused to issue a writ of attachment in favor of the plaintiff because the case against Danilo Flordeliza is still pending and the Judge is still determining whether or not there is valid ground to issue the writ. Mr. Flordeliza and the undersigned being playmates in a basketball tournament is only incidental. It is the parties that discussed the settlement of the case. The undersigned never influenced the parties. In fact, up to now, they are still negotiating for the possible settlement of the case. In another case of Alfonso Quilapio, this is a closed case. The parties have settled the case amicably and Atty. Bohol hastily terminated the case while the undersigned was on leave and Hon. Sinforiano Monsanto, acting as pairing judge was the one who approved the compromise agreement between the parties, not the undersigned;

- The records of my Court can clearly show that I have not favored any lawyer. All of them are my friends. I maintained a clean and friendly relationship with them. Even to Atty. Bohol, counsel for the complainant, I have cordial relationship. Except that at one time, I inhibited myself to handle the cases of Atty. Bohol because he charged me before the Supreme Court of which I was exonerated. So, within the period of five (5) years, I inhibited myself from handling all cases of Atty. Bohol. Other Judges also inhibited themselves to handle cases of Atty. Bohol, like Judge Quimsing, Judge Mabansag, Judge Jakosalem, Judge Llosa and Judge Monsanto. Atty. Bohol approached me to reconsider my order of inhibition. So, because of the honest to goodness appeal of Atty. Bohol, I reconsidered my order and allowed him to appear before my sala;

- For absenteeism, it is understood that every judge is entitled to a 30-day creditable leave and another 30-day forfeitable leave. I did not secure a leave of absence for more than one week. True, I always asked for a leave of absence, but I do not exceed or consume my 30-day forfeitable leave. The records will bear me out that for more than 18 years, I never have had a leave of absence of more than one week. I admit that I have two (2) wives - Soledad and Noraiaam, who are both Muslims. I am a Muslim Imam. It is my duty to marry two (2), but not more than four (4) wives. I never abused my wives and children. I never touched any other women. Neither mingle nor flirt with them;

- If my performance for the last two (2) years has been a little bit reduced, although, I do not admit, perhaps, it is because I was designated as Acting Presiding Judge in Calbiga, RTC Branch 33, from November 22, 1999 to June 2001, which is fifty (50) kilometers away from Catbalogan. Now, I was relieved. It is understood that a judge is a man, not a robot. Our performance is sometimes limited by the constraint of time and physical force. The increase of cases in the Province of Samar is due to the increase of population and growth of crimes which is true to all other provinces. Population grows geometrically. Poverty aggravates or increase crime rate. The delays of the disposition of cases sometimes are not solely the fault of a judge;

- I do not solicit donation from anybody for the construction of the Muslim Mosque. Yes, I used my personal money. Anybody who contributed to the house of God does it voluntarily not for the sake of Judge Usman, but for the sake of himself.

Considering the seriousness of the charges against the respondent judge, the Office of the Court Administrator recommended that a formal inquiry be conducted thereon and that the administrative case be referred to the Court of Appeals for investigation, report and recommendation.[3] Hence, on July 29, 2002, the Supreme Court issued a Resolution[4] referring the instant case to the Court of Appeals. Accordingly, on August 27, 2002, the case was raffled off to now retired Justice Bennie A. Adefuin-De la Cruz.

However, on February 7, 2003, Justice Bennie A. Adefuin-De la Cruz filed with the Supreme Court a request to be relieved from the case for the reason that she might not be able to objectively act on the said case, in view of the conduct, actuations and intimidating stance and demeanor of Attys. Plaridel Bohol, Sr. and Plaridel Bohol II.[5] The instant case was thus transferred to the undersigned investigating Justice.

On April 12, 2004, the Supreme Court issued a resolution consolidating CPL C-02-2042 (Plaridel D. Bohol vs. Judge Sibanah E. Usman) [docketed with this Court as Adm. Matter OCA IPI No. 03-1744-RTJ] with A.M. No. RTJ-02-1713 (Romulo D. Jabon vs. Judge Sibanah E. Usman).[6] [Plaridel D. Bohol's complaint reiterated the allegations in Jabon's complaint and merely added the allegation that respondent uttered grave threats against his son, Plaridel Samuel J. Bohol.]

INVESTIGATION

During the hearings conducted, Atty. Plaridel Bohol testified and presented the following documentary evidence: The affidavit-complaint of Atty. Plaridel Bohol, Sr.; Memorandum for Hon. Zenaida Elepaño dated June 23, 2003; Sworn Statement dated October 31, 2002 of Plaridel Samuel J. Bohol; Certification of the police blotter dated October 30, 2002; Certification dated October 25, 2002 issued by the Dean of the College of Law of the University of the East; Transcript of stenographic notes dated September 21, 2000, January 18, 2001, and November 20, 2001 in Civil Case No. 7082 entitled, "Romulo Jabon vs. Adolfo Ibañez;" Sheriff's Certificate of Sale in Civil Case No. 892, entitled "Evelyn Uycoque Abrio represented by Norma J. Bohol vs. Sps. Aurelio and Noemi Esparraguera;" Record of Sale at public auction (minutes) dated December 29, 1999; Certification dated September 3, 2003 issued by Ofelia T. Borja, Director of the Department of Human Resources and Development, University of the East; Letter dated July 31, 2003 from retired Deputy Court Administrator Reynaldo L. Suarez, Dean of the University of the East College of Law in compliance with the subpoena duces tecum issued by the undersigned investigating Justice; memorandum dated June 27, 2003 of VPAA Baltazar N. Endriga regarding verification of credentials of faculty; Certification dated June 27, 2004 issued by Hon. Henry S. Bensurto; and the transcript of stenographic notes of the deposition upon written interrogatories to complainant Romulo Jabon.

In addition, Atty. Artemio A. Nuñez III, Judicial Supervisor, employed at the Court Management Office, Office of the Court Administrator, was presented to support the complainant's charges of incompetence and absenteeism against respondent judge.

To refute the charges against him, respondent judge testified in court and presented the following documentary evidences: Letter dated July 31, 2003, issued by retired Deputy Court Administrator Reynaldo L. Suarez; Memorandum dated June 27, 2003 from Dean Reynaldo Suarez of U.E. College of Law for VPAA Baltazar Endriga; Certification dated July 8, 2003 from Jesus Lamadrid, Municipal Engineer of Catbalogan, Samar stating that the approximate distance of the residence of Atty. Plaridel Bohol from Bulwagan ng Katarungan is 489.15 meters; Sketch of residence of Atty. Plaridel Bohol to the Bulwagan ng Katarungan; Joint affidavit dated July 16, 2003 of Elizabeth Corrales, Lilia Raga, Benjamin Garcia, Modesto Villarin, Ramil Bernal, and Julius Cabe stating that the case of "Jabon vs. Ibañez" was called for hearing on September 21, 2000 at 9:00 o'clock in the morning and that plaintiff Jabon was allowed to present evidence immediately; TSN dated September 21, 2002 in the case of "Romulo Jabon vs. Ibañez;" Certification dated May 12, 2003 from the Bureau of Immigration, Department of Justice; Travel records of complainant Romulo Jabon; Affidavit of Jesus Carnacite dated May 5, 2003 stating that on April 2, 2003, affiant saw the complainant Romulo Jabon with Plaridel Samuel Bohol inside the cockpit arena in Catbalogan, Samar; Joint affidavit of Atty. Jose Mendiola and Lilia C. Raga dated December 11, 2002 stating that on October 25, 2002, the affiants overheard Atty. Plaridel Bohol saying to Judge Usman that: "I have no knowledge or participation in the preparation of the complaint. Don't worry I will help you convince him to settle the case amicably"; Information dated December 14, 2001, in Criminal Case No. Y1-L-962 entitled, "People of the Philippines vs. Atty. Plaridel Bohol" for slight physical injuries; Order of voluntary inhibition issued by RTC Judge Roberto Natividad; Letter of the Hon. Sinforiano A. Monsanto dated March 26, 2003; and Answer of respondent Judge dated July 11, 2003 to the administrative case filed by Atty. Bohol, Sr.

GRAFT AND CORRUPTION

According to Atty. Plaridel Bohol, on September 21, 2000, Civil Case No. 7082 for damages with prayer for preliminary attachment, entitled "Romulo D. Jabon vs. Adolfo Ibañez" was called for pre-trial in the Regional Trial Court of Catbalogan, Samar, Branch 28, presided by respondent Judge Sibanah E. Usman. Atty. Plaridel D. Bohol, Sr. who was then the counsel of plaintiff Jabon, complainant in the instant administrative case, moved before said Court that the plaintiff be allowed to present his evidence ex-parte and that the Court render judgment on the basis thereof on account of the unjustified failure of the defendant to appear, citing Sections 3 and 5, Rule 18 of the Rules of Court.

Respondent Judge denied the motion to present evidence ex-parte and when Atty. Plaridel D. Bohol, Sr. insisted, respondent judge called a recess. During the recess, respondent judge, knowing that said complainant was based in the U.S. and gainfully employed therein, asked complainant to buy from him a set of earrings and a ring; and in exchange, respondent judge promised to allow complainant Jabon to testify ex-parte in the case then and even render a decision forthwith. When informed by his client, Atty. Bohol told his client that he could not take part in said arrangement. Nevertheless, Atty. Bohol accompanied his client back to the chambers of Judge Usman. Since complainant Jabon did not have enough cash with him, they (Atty. Plaridel and complainant Jabon) had to go to Atty. Plaridel's house, which was only 100 meters away, to borrow money from his wife. After a few minutes, they returned to the chambers of the Judge and gave the amount of Php40,000.00 as payment for the jewelries. Respondent Judge then allowed complainant Jabon to testify ex-parte.

Atty. Bohol also presented as evidence the transcript of stenographic notes of the deposition of complainant Jabon to prove the charge of graft and corruption committed by respondent judge in selling jewelries to complainant Jabon as a condition for his ex-parte testimony.

Respondent judge on the other hand denied having sold any jewelry to complainant Jabon. To support his defense, he presented the affidavits of his staff stating that on September 21, 2000, the hearing of the case of "Jabon vs. Ibañez" was called at 9:00 o'clock in the morning; that complainant Jabon was allowed to immediately present evidence ex- parte until 11:00 o'clock in the morning; that there was no recess or interruption of the proceeding; that Judge Usman and complainant Jabon did not talk to each other inside the chamber or anywhere within the vicinity of Bulwagan ng Katarungan; and that there was no selling of jewelries by and between Judge Usman and complainant Jabon. In addition, respondent Judge presented a certification dated July 8, 2003 from, Jesus Lamadrid, Municipal Engineer of Catbalogan, Samar, who said that the approximate distance between the residence of Atty. Plaridel located at Mabini Avenue to the Bulwagan ng Katarungan, is 489.15 meters, and not 100 meters as testified to by Atty. Bohol.

Respondent judge likewise presented documents to show that complainant Jabon was in the Philippines several times; hence, it was altogether possible for said complainant to personally appear in court, but did not.

INCOMPETENCE AND IGNORANCE OF THE LAW

To establish this, Atty. Bohol cited the following cases under the sala of respondent Judge:

(a) Civil Case No. 7079: Spouses Florente/Carmen Lim vs. Development Bank of the Philippines

In that case, respondent Judge issued a preliminary injunction to stop the running of the period to redeem the property, which had previously been sold at public auction to defendant DBP. Complainant alleges that such act is contrary to law, as the running of the redemption period cannot be enjoined.

(b) Civil Case No. 7339: Virginia Dapdap, et al. vs. Nancy Saizes, et al.

Complainant claims that the dismissal of the case was manifestly improper since defendants in their motion were merely requesting that a preliminary hearing be conducted on their affirmative defenses. Thus, the court should not have dismissed the case without first conducting the discretionary preliminary hearing as requested by the defendants and while the parties were not yet asking for the resolution of the affirmative defenses

themselves.

(c) Civil Case No. 7268: Sps. Nestor and Sofronia Ramos vs. Capital Insurance and Surety Co., Inc. et al.

In that case, Atty. Bohol, counsel for plaintiff spouses, filed a motion for judgment on the pleadings. Respondent judge granted said motion and adjudged defendant therein to be liable for the coverage of the insurance, litigation expenses, and attorney's fees. Nevertheless, Atty. Bohol claims that such an award is without basis as no hearing was held thereon, even as no evidence establishing the amounts awarded, was submitted by the plaintiffs therein.

(d) Sabarre-Tan vs. Solayao, et al.

In that case, respondent Judge ordered an immediate execution of an order by stating the same in his final order of judgment, thereby preempting the right of the parties from questioning said order.

In addition to these cases, Atty. Bohol also presented Atty. Nuñez to testify on the judicial audit conducted by his team from January 26, 2003 to February 4, 2003, pursuant to Travel Order No. 03-002, Series of 2003, dated January 7, 2003 of the RTC, Branch 28, Catbalogan Western Samar, presided over by respondent judge. In the report, the team recommended that respondent judge be made to explain in writing why no administrative sanction shall be imposed upon him for failure to decide the four civil cases; for failure to take appropriate action on 52 criminal cases; for failure to take initial action on fifteen criminal cases and seven civil cases; and for failure to resolve within the reglementary period motions/incidents in three criminal cases.

In answer to these allegations, respondent judge averred that his actions as in these cases were based on his sound judicial discretion and that when he rendered his decisions or issued his orders in these cases, he was mindful of his duty to act in accordance with law and evidence.

As to the judicial audit report, respondent judge manifested that he was not furnished a copy of the said report and that he is willing to submit his written explanation with the Office of the Court Administrator upon receipt of the same.

DISHONESTY

Atty. Bohol alleged that respondent judge committed dishonesty when he purchased through auction some personal properties levied in the ejectment case filed by Atty. Bohol's wife in the Municipal Trial Court of Catbalogan, Samar, entitled "Evelyn Uycoque Abrio, represented by Norma J. Bohol vs. Spouses Aurelio and Naomi Esparaguerra," thereat docketed as Civil Case No. 892. Atty. Bohol testified that after the decision dated July 22, 1999 of the Municipal Trial Court of Catbalogan, Samar became final and executory, a writ of execution was issued by the court; that the personal properties of tenants Esparaguerra were levied, seized and deposited at the Bulwagan ng Katarungan of the Regional Trial Court, under the care of the RTC Clerk of Court through Executing Sheriff Arnulfo Castillo; that an auction sale was advertised and set; and that respondent judge asked Atty. Bohol if there were valuable personal properties involved in the auction as he would let Mr. Vito B. Liad, his Clerk in Branch 28, participate and bid in some personal properties he could use in the house of his new wife in Catbalogan, Samar. As proof of this, Atty. Bohol presented as evidence a Sheriff's Certificate of Sale in the name of the respondent judge.

Respondent judge strongly denied that he participated in the public bidding; he said that it was his clerk, Vito B. Liad, who made the purchase without his knowledge, authority or consent. Respondent judge further said that assuming ex gratia argumenti that he did indeed, participate in the public bidding and acquired certain levied items, still his action would not be in violation of any law as the said items were seized in connection with a case not within the jurisdiction of his court, as the case was decided in the Municipal Trial Court upon which respondent did not pass judgment, and in which he had no participation whatsoever.

PARTIALITY AND SCANDALOUS BIAS IN

THE CONDUCT OF HIS JUDICIAL PROCEEDINGS

Atty. Bohol accused respondent judge of being biased against him, for the reason that respondent judge was displeased with what happened in the case of "Spouses Alfonso/Elisa Quilapio, et al.," docketed in respondent judge's court as Civil Case No. 7081.

Atty. Bohol testified that in the case of Quilapio, respondent judge issued a preliminary attachment in favor of Atty. Bohol's client; that while the case was being settled respondent judge was in Manila; that in view of this, the amicable settlement was approved by Judge Sinforiano Monsanto, pairing judge; that upon respondent judge's return from Manila, he called for Atty. Bohol; that during their meeting, respondent judge remarked, "Why did you not wait for me before you settled the case?.. I could have asked the bus company P200,000.00. I need that money, I don't have money now. I could not have released easily that bus"; that in retaliation, respondent judge refused to issue a writ of attachment in favor of Atty. Bohol's client in the case "Dacaynos vs. Flordeliza," docketed in respondent judge's court as Civil Case No. 7275.

Respondent judge on the other hand denied having made those statements to Atty. Bohol.

FRATERNIZATION WITH LAW PRACTITIONERS AFFECTING THE DISPOSITION OF CASES IN THE COURTS HE PRESIDES

Atty. Bohol testified that whenever cases handled by respondent Judge's favorite law practitioners were called and such favorite lawyers failed to appear, he would readily order the adverse counsel to merely move to transfer or reset the case, before such counsel could interpose any objections.

ABSENTEEISM

Atty. Bohol testified that respondent Judge is more often than not, absent from the court he supposedly presides over and is always out of town and that respondent judge merely schedules cases in his sala without being in court during the scheduled hearings.

Atty. Bohol likewise submitted evidence that respondent judge has been a faculty member of the University of the East College of Law since July 5, 1980; that he has been handling in the UE College of Law the subject torts and damages consistently for the past several years;[7] that he retired from teaching only on January 25, 2003;[8] and that respondent Judge did not submit a permit to teach since he started teaching at the college.[9]

Respondent judge denied Atty. Bohol's allegation of absenteeism. However, he admitted that ever since he started teaching he never requested for a permit to teach.[10] To justify his failure to obtain a permit from the Supreme Court, he said that the University of the East did not require him to submit one.

UTTERING GRAVE THREATS

Atty. Bohol presented the sworn statement dated October 31, 2002 of Plaridel Samuel J. Bohol to substantiate the charge that respondent judge uttered grave threats to his son, Plaridel Samuel Bohol. Pertinent portion of the sworn statement reads that:

Then in one of my usual visits to the Bulwagan ng Katarungan where the Regional Trial Courts are housed Judge Usman called my attention at the porch of said building, saying: "PAKI SABI SA TATAY MO NA TULUNGAN NIYA AKO NA HINDI IPAGPATULOY AND (SIC) ADMINISTRATIVE CASE LABAN SA AKIN NI ROMULO JABON. PAGNATANGGAL AKO SA SERBISYO KAHIT SAAN LUPALUP SIYA SA DAIGDIG AY PUPUNTAHAN KO SIYA AT UUBUSIN KO ANG LAHI NIYA.

He likewise presented a certification of the police blotter dated October 30, 2002, stating that on October 29, 2002, respondent judge approached Plaridel Samuel Bohol and in a loud voice said: "Bakit idinidiin ako ng tatay mo wala naman ako kasalanan at mabait naman ako sa inyo at alam mo na wala akong kasalanan?

Pagnatangal ako as serbisyo na wala akong kasalanan - ubusan tayo ng lahi."

Respondent judge admitted that he indeed had a conversation with Plaridel Samuel Bohol near the office of the Branch Clerk of Court. However, he denied having uttered those threatening words. According to respondent judge, when he saw Plaridel Samuel Bohol, he approached him and told him, "Sammy, please tell your father to go slow against me. My brothers are already mad at him. I do not like that we will have a family feud. Please tell him." [11]

FINDINGS

Upon careful evaluation of the evidence presented by the complainant and the respondent judge, the undersigned investigating Justice finds that the charges against the respondent judge for graft and corruption, the incompetence and ignorance of the law, dishonesty, partiality and scandalous bias in the conduct of his judicial proceedings, fraternization with law practitioners affecting the disposition of the cases in the court he presides, and for absenteeism had not been thoroughly unsubstantiated (sic).

However, the undersigned investigating Justice finds respondent judge guilty of influencing the outcome of the instant administrative case, of engaging in the teaching profession without a permit to teach from the Supreme Court, and of uttering grave threats.

GRAFT AND CORRUPTION

On the charge of graft and corruption, the undersigned investigating Justice observed that there are many inconsistencies on substantial matters, which create doubt as to whether or not the alleged transaction took place.

According to the direct testimony of Atty. Bohol, the sequencing of events is as follows: (a) Atty. Bohol was insisting that complainant Jabon be allowed to present evidence ex-parte; (b) respondent judge uttered the statement, "your client just came over from America. He must have dollars. Can you not tell him to buy jewelries from me?" (c) Atty. Bohol replied, "I cannot do that, Your Honor.;" (d) respondent judge called for complainant Jabon in his chambers; (e) complainant Jabon came out and told Atty. Jabon (sic) that respondent judge was selling jewelries in exchange for the ex-parte testimony; (f) Atty. Bohol, told him (sic) client that "I don't think that is part " To assist, and I will not take part on that"; (g) Atty. Bohol then accompanied complainant Jabon to the chambers; (h) complainant Jabon paid P40,000.00; (i) respondent judge gave complainant Jabon the jewelries; and (j) the case was called again. [12]

However, on cross-examination, Atty. Bohol, Sr. gave a different sequencing of events. Based on the testimony of Atty. Bohol, the following events happened that day: (a) during the first call, complainant Jabon was not allowed to testify ex-parte; [13] (b) recess was called; [14] (c) respondent judge called for complainant Jabon in his chambers, through Atty. Bohol's son, Samuel; [15] (d) while in the chambers, respondent judge told complainant Jabon of his proposal; [16] (e) complainant Jabon went out and told Atty. Bohol about the offer of respondent judge; [17] (f) Atty. Bohol told complainant Jabon that, "I don't think that is good. It is up to you to decide.;" [18] (g) Atty. Bohol accompanied complainant Jabon inside the chambers of respondent judge; [19] (h) respondent judge uttered the statement, "your client just came over from America. He must have dollars. Can you not tell him to buy jewelries from me?;" [20] (i) Atty. Bohol answered respondent judge that he did not want to participate in that transaction and that he only wants his client, complainant Jabon, to be able to testify; [21] (j) Atty. Bohol and complainant Jabon went to the former's residence to borrow money from Atty. Bohol's wife; [22] (k) they returned to the chambers and gave the respondent judge P40,000.00 as payment for the jewelry; [23] and (l) the session resumed and complainant Jabon was able to testify ex-parte. [24]

Obviously, there are inconsistencies in his testimonies.

As to when the statement, "Your client just came from America. He must have dollars. Can you not tell him to

buy jewelries from me?" was uttered, Atty. Bohol gave inconsistent answers. On direct examination, he said it was uttered before respondent judge called for complainant Jabon in the chambers. On cross, he said it was uttered after complainant Jabon went inside the chambers for the second time.

The first time he was asked who was with him when respondent Judge uttered the alleged statement, he said "I and my son, perhaps." .. Jabon was not near us ... He was in court, in the sala."[25] However, the second time he was asked this, he answered, "Mr. Jabon and myself." [26]

Asked on cross-examination where he was when Judge Usman said, "Your client just came from America. He must have dollars. Can you not tell him to buy jewelries from me?," he said that they (complainant Jabon, Atty. Bohol and his son) were in the chambers.[27] But later on, he changed his answer and testified that the alleged utterance was made by Judge Usman outside the chambers, inside the sala.[28]

Moreover, Atty. Bohol's allegation that complainant Jabon's money was not enough so they had to go to Atty. Bohol's house to borrow money from Atty. Bohol's wife is unbelievable. Considering that Atty. Bohol and complainant Jabon had to travel half a kilometer in order to borrow money, and considering further the there were other cases scheduled that day, it is hard to imagine how all of these transpired from 8:30 a.m. to 12 noon.

As a matter of fact, this allegation was never mentioned in the affidavits nor was it mentioned during the direct examination of Atty. Bohol. In fact, on cross-examination, Atty. Bohol failed to bring this up despite the opportunity to do so -

JUDGE USMAN:

Now you mean to tell us, you want to convince this court that instantly Mr. Jabon was bringing P40,000.00 and right there and then he paid that P40,000.00 jewelry to Judge Usman?

WITNESS:

That is what I saw. That is what I noticed. Whether instantly he was carrying that much, he had that much when you presented it.[29]

He only mentioned this allegation during the second hearing of his cross-examination.[30]

Also quite telling is the fact that Atty. Bohol, notwithstanding his testimony that he had the opportunity to look at the jewelries closely,[31] failed to give even the slightest description of the jewelry. On cross, he said:

J. DADUDAO: Did you see those pieces of jewelry?

WITNESS: Yes, Your Honor.

J. DACUDAO: Will you please describe them to this Investigator?

WITNESS: Earrings and ring, Your Honor.

J. DACUDAO: What was the color of the earrings?

WITNESS: I am not fond of jewelries, Your Honor, but there were white gold, I think there were.

J. DACUDAO: But you are not color blind, are you?

WITNESS: I am not.

J. DACUDAO: What was the color, if you can recall?

WITNESS: There was white gold, I think, and there was silver.

J. DACUCAO: How about the rings? How many pieces of ring by the way?

WITNESS: Only one, Your Honor.

J. DACUDAO: How about earrings?

WITNESS: Earrings, two, Your Honor.

J. DACUDAO: Pair of earrings?

WITNESS: Yes, your Honor.

J. DACUDAO: Continue please.

J. USMAN: Can you specify if this ring and earrings are dotted with diamonds, ruby or emerald?

WITNESS: I am not sure. I am not fond of jewelries.

J. USMAN: But you know diamonds, isn't it? You know emerald, you know ruby?

WITNESS: I am not sure.

J. DACUDAO: You know whether the stone is a ruby or an emerald or a diamond?

WITNESS: I am not acquainted with those things. But definitely they were earrings and a ring.[32]

Atty. Bohol, given his stature, is expected to have a retentive memory. As even the most inexperienced person, would be able to distinguish a diamond, from a ruby or an emerald, or at the very least remember if there are stones attached to the jewelries and make an effortless description and/or a distinction of their colors. Thus, the undersigned Investigating Justice doubts the veracity and truthfulness of Atty. Bohol's testimony.

Even the deposition given by complainant Jabon is not sufficient to convince the undersigned Justice that the alleged transaction did take place.

On the other hand, respondent judge was able to submit affidavits, certifications and transcript of stenographic notes to corroborate his statement that no recess was called that day; that he never sold any jewelries to complainant Jabon; and that the distance from the courtroom to Atty. Bohol's house is 489.15 meters.

Jurisprudence dictates -

"The ground for the removal of a judicial officer should be established beyond reasonable doubt. Such is the rule where the charges on which the removal is sought is misconduct in office, willful neglect, corruption or incompetence. The general rules with regard to admissibility of evidence in criminal trials apply."[33]

INCOMPETENCE AND IGNORANCE OF THE LAW

The charges of incompetence and ignorance of the law are likewise devoid of merit.

The undersigned investigating Justice takes notice of the fact that the Deputy Court Administrator has not yet approved the recommendations stated in the judicial audit report, and thus, respondent judge has not been formally furnished a copy of the judicial audit report.

In view of this, the judicial audit report presented by Atty. Bohol as of the moment cannot be used as a basis to determine whether respondent judge is guilty of incompetence. It is only after respondent judge receives a copy of the judicial audit report and submits a written explanation why no administrative sanction should be imposed against him can a judgment be made on this charge. It must be stressed that the liberality of procedure in administrative actions is still subject to limitations imposed by the fundamental requirement of due process.[34]

As to charge of ignorance of the law, Atty. Bohol failed to show that respondent judge blatantly violated any law or jurisprudential principle in the discharge of his duties. In fact, most of the assailed decisions or orders of the respondent judge involved matters addressed to the sound discretion of the respondent judge. Thus, in the absence of countervailing evidence, as in this case, the presumption is that the respondent judge had regularly performed his duties.

Besides, an administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available, such as a motion for reconsideration or an appeal. Such is the situation in this case. In fact, the assailed decision in the case of Nancy Saizes is on appeal with the Court of Appeals.

In *Santos vs. Judge Orlino*, A.M. RTJ-98-1418, September 25, 1998,[35] it was held:

The fundamental propositions governing responsibility for judicial error were more recently summarized "In *Re: Joaquin T. Borromeo*," 241 SCRA 405-467 (1995). There, this Court stressed inter alia that given the nature of the judicial function and the power vested by the Constitution in the Supreme Court and the lower courts established by law, administrative or criminal complaints are neither alternative nor cumulative to judicial remedies where such are available, and must wait on the result thereof. Existing doctrine is that judges are not liable for what they do in the exercise of their judicial functions when acting within their legal powers and jurisdiction. Certain it is that a judge may not be held administratively accountable for every erroneous order or decision he renders. To hold otherwise would render judicial office untenable for no one called upon to try the fact or interpret the law in the process of administering justice can be infallible in his judgment. The error must be gross or patent, deliberate and malicious or incurred with evident bad faith.

DISHONESTY

The pertinent provision of the Civil Code of the Philippines stipulates:

Article 1491. The following persons cannot acquire by purchase, even at a public or judicial action, either in person or through the mediation of another:

...

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

In the case at bar, Atty. Bohol failed to present certified copies of the Sheriff's Certificate of Sale and Record of Sale at public auction; thus, these documents cannot be given any probative value. As this Court said in *Ang Tibay vs. CIR*,[36] the provision for flexibility in administrative procedure "does not go so far as to justify orders without a basis in evidence having rational probative value."

Moreover, even if respondent judge did participate in the public bidding, he still cannot be penalized for it. The Supreme Court has already ruled that "...for the prohibition to operate, the sale or assignment of the property must take place during the pendency of the litigation involving the property." [37] In this case, Atty. Bohol himself testified that the case did not even reach the court of respondent judge. What the law intends to avoid is the improper interference with and interest of a judge in a thing levied upon and sold by his order.[38]

PARTIALITY AND SCANDALOUS BIAS

IN THE CONDUCT OF HIS JUDICIAL PROCEEDINGS; FRATERNIZATION WITH LAW PRACTITIONERS

AFFECTING THE DISPOSITION OF CASES

IN THE COURTS HE PRESIDES; AND ABSENTEEISM

No convicting evidence was presented to show that respondent judge committed any of these charges. The accusations were couched in general terms. Atty. Bohol did not even mention the cases wherein respondent judge committed these acts. One cannot but conclude that the charges were based on mere suspicion or speculation.

UTTERING GRAVE THREATS

After a careful review of the evidence presented, the undersigned investigator finds that the sworn statement of Plaridel Samuel Bohol bearing on the incident and a police blotter of the same, while not exactly consistent, are not outrightly incredible, either. Atty. Bohol testified that the police blotter pertained to the same incident; however, a reading of the sworn statement would show that the alleged grave threats uttered by respondent judge are not the same as those contained in the police blotter.[39] In the sworn statement, respondent judge allegedly told Plaridel Samuel Bohol to tell his father to help respondent judge convince complainant Jabon not to push through with his complaint, or else respondent judge will hunt him down. While in the police blotter respondent judge allegedly asked Plaridel Samuel Bohol why his father was doing this to him (respondent judge), knowing that he (respondent judge) had not done him (Atty. Bohol), wrong, and knowing that he (respondent judge) has always been good to him (Atty. Bohol); and threatened that in the event he (respondent judge) is dismissed from service, he would finish them all. Clearly, while the gist of the declaration in the police blotter is not exactly the same as the gist of the declaration in the sworn statement, they put across a message, at once loud and clear, of mayhem for the Bohol family, that the latter, or any person of ordinary common sense, for that matter, could not have mistaken for anything else.

Of course, respondent judge also transgressed the Code of Judicial Conduct considering that he admitted that he approached Plaridel Samuel Bohol and requested him to tell his father, Atty. Bohol to help him (respondent judge) persuade complainant Jabon to withdraw the instant administrative complaint.[40]

Rule 2.04 of the Code of Judicial Conduct stipulates that a judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency. In this case, respondent judge obviously tried to influence the outcome of his administrative case. If even the slightest form of interference cannot be countenanced, what more in the case of a judge who interferes with his own administrative case.

TEACHING WITHOUT A PERMIT TO TEACH FROM THE SUPREME COURT

As early as May 2, 1973, the Supreme Court has issued rules and regulation on teaching (Supreme Court Circular No. 1, dated May 2, 1973, as amended by the Resolution of the Court En Banc dated June 4, 1974). Supreme Court Circular No. 62-97, dated October 9, 1997 in fact was issued to reiterate the rules and regulations on teaching and to emphasize that strict compliance is required.

Respondent judge's failure to accomplish the Request for Permission to Teach form prescribed in Circular No. 50-97, dated July 18, 1997 is inexcusable. It is a clear violation of the judiciary rules and regulations, indicating respondent judge's disregard of the authority of the Supreme Court. For no matter how insignificant or inconsequential the circular may seem to respondent judge, he should have complied with it.

The Canons of Judicial Ethics requires that "the judge should be studiously careful himself to avoid even the slightest infraction of the law, lest it be a demoralizing example to others."

POSTSCRIPT

As a final note, the undersigned investigator finds it necessary to inform the Honorable Supreme Court that during the hearing of this case, the undersigned investigating Justice heard respondent judge uttering, "magkaubusan ng lahe".[41] Such utterance, in the presence of the undersigned investigating Justice, and his staff, aside from being a specie of grave threats, is a blatant disrespect not only to the investigating Justice but to the Court of which this investigating Justice is a member, and the very Court that respondent judge also aspires to be elevated to. It is conduct unbecoming a member of the bench. Respondent judge ought to bear in mind that when he is before the Court, he must observe judicial decorum and be temperate in his language. Respondent judge must likewise be reminded that as a judicial magistrate he must act with becoming self-restraint and civility at all times; and that furthermore, no matter how exacting or trying the situation may be, he must remain courteous and exhibit an enormous amount of self-control at all times.

RECOMMENDATIONS

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the undersigned investigating Justice hereby recommends that the charges against respondent judge for graft and corruption, for incompetence and ignorance of the law, for dishonesty, partiality and scandalous bias in the conduct of judicial proceedings, fraternization with law practitioners affecting the disposition of the cases in the court over which he presides, and for absenteeism, be dismissed for lack of sufficient evidence. Nevertheless, the undersigned investigating Justice recommends that respondent judge be suspended for a period of three (3) months, without pay, for uttering grave threats against Atty. Plaridel D. Bohol, Sr., and his family, and against the undersigned investigating Justice and his staff, for violating Rule 2.04 of the Code of Judicial Conduct, and for failing to comply with Supreme Court Circular No. 62-97 dated October 9, 1997, in relation to Supreme Court Circular No. 50-97, dated July 18, 1997.

Except for the recommended penalty, the Court is in full agreement with and adopts the evaluation and findings of facts made by the Investigating Justice.

The charge for graft and corruption should indeed be struck down for insufficiency of evidence. The testimony of Atty. Bohol and the deposition upon written interrogatories of complainant Jabon[42] were presented to prove their allegation that during the hearing of Jabon's case before respondent judge on September 21, 2000, respondent prevailed upon Jabon to buy jewelries from him in exchange for an order allowing Jabon to present evidence ex-parte. However, as keenly observed by the Investigating Justice, there were substantial inconsistencies in the testimony of Atty. Bohol which gravely affected the credibility of his statements. When asked during the cross-examination conducted by respondent at the hearing on June 25, 2003 if Mr. Jabon immediately had the amount of P40,000.00 with him to pay respondent, Atty. Bohol answered, "That is what I saw. That is what I noticed. Whether instantly he was carrying that much, he had that much when you presented it." Then, during cross-examination at the hearing held on June 30, 2003, Atty. Bohol drastically changed his answer, saying that they had to go back to his house to borrow money from his (Atty. Bohol's) wife. Indeed, the two versions being presented by Atty. Bohol on a very material point are so diametrically opposed that it makes one seriously doubt the veracity of Atty. Bohol's entire account of events that allegedly transpired on September 21, 2000.

The deposition of complainant Jabon, instead of clarifying matters, even made the account of the whole incident more confusing because he stated that the incident happened on September 21, 2002, while Atty. Bohol testified that the incident occurred on September 21, 2000. Complainant Jabon was even asked twice what made him conclude that respondent was "such as you have charged him in your complaint," and both times, he answered, "Because in September 21, 2002 Judge Usman sold jewelries to me . . ."[43] Verily, the glaring discrepancy in the

date of the commission of the alleged corrupt act and the fact that Jabon did not give the correct date despite the fact that he was given the opportunity to correct such discrepancy when he answered the question for the second time, negatively affects Jabon's credibility. In *Ong vs. Herrera-Martinez*,^[44] where petitioner therein was contesting the appointment of therein respondent as replacement from the same political party of a deceased councilor, the Court made the pronouncement that the discrepancy between the date petitioner allegedly took his oath and the later date stated on his residence certificate used in taking said oath casts a doubt on petitioner's credibility and honesty.^[45] Thus, the Court finds the deposition of complainant Jabon bereft of any probative weight.

As to the charges for incompetence, ignorance of the law and dishonesty, complainants utterly failed to present substantial proof to negate the presumptions of good faith and the regularity in the performance of judicial functions. It is true that "judges may be held administratively liable for gross ignorance of the law when it is shown that -- motivated by bad faith, fraud, dishonesty or corruption -- they ignored, contradicted or failed to apply settled law and jurisprudence."^[46] The Court has thoroughly elucidated in *Re: Judge Silverio S. Tayao*, RTC, Br. 143, Makati^[47] that:

" By its nature, judicial discretion involves the exercise of judgment on the part of the judge. The judge must be allowed a reasonable latitude for the operation of his own individual view of the case, his appreciation of the facts, and his understanding of the applicable law on the matter. '"

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

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

As a matter of public policy, in the absence of fraud, dishonesty, or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action, even though such acts are erroneous. (*Revita vs. Rimando*, 98 SCRA 619 [1980]); *Ubongon vs. Mayo*, 99 SCRA 30 [1980]); "

Mere errors in the application of such evidence, unless so gross and patent as to produce an inference of ignorance or bad faith, or that the Judge knowingly rendered an unjust decision, are irrelevant and immaterial in an administrative proceeding against him. No one, called upon to try facts or interpret the law in the process of administering justice, can be infallible in his judgment. All that is expected of him is that he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues presented, and on the basis of the conclusions he finds established, with only his conscience, and knowledge of the law to guide him, adjudicate the case accordingly. (*Vda. de Zabala vs. Pamaran*, 39 SCRA 430 [1971])^[48]

In this case, however, the alleged erroneous orders issued by respondent were not even presented during the hearing and offered as evidence. Thus, there is nothing to support complainants' bare allegation that such orders were indeed issued. Besides, and more significantly, as stated in *Llovido vs. Judge Estrella T. Estrada*,^[49] to wit:

It must be stressed that an administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for certiorari, unless the assailed order or decision is tainted with fraud, malice, or dishonesty. The remedy of the aggrieved party is to elevate the assailed decision or order to the higher court for review and correction. Thus, disciplinary proceedings and criminal actions against magistrates do not complement, supplement or substitute judicial remedies, whether ordinary or extraordinary. An inquiry into their civil, criminal and/or administrative liability may be made only after the available remedies have been exhausted and decided with finality. In fine, only judicial errors tainted

with fraud, dishonesty, gross ignorance, bad faith, or deliberate intent to do an injustice will be administratively sanctioned. To hold, otherwise, would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.

The Report and Recommendation of the judicial audit team cannot also be given any probative value as it has not yet been reported, nor its approval recommended by the Court Administrator to the Court. As witness Atty. Artemio A. Nuñez III, Judicial Supervisor of the Court Management Office, Office of the Court Administrator, testified, the respondent judge is "given a chance to explain and not everything that is found in the audit report is the whole truth and nothing but the truth,"[50] and the judge may still refute the findings of the audit team.[51]

With regard to the charges for partiality and scandalous bias in the conduct of his judicial proceedings, fraternization with law practitioners affecting the disposition of cases in the courts he presides and absenteeism, the Court likewise agrees with the findings of the Investigating Justice that these charges have not been substantiated and should be dismissed. A close examination of the records of this administrative case shows that, indeed, there is no solid evidence to substantiate complainants' bare allegations.

Respondent should, however, be sanctioned for uttering grave threats, trying to influence the outcome of this administrative case, and teaching without the required permit from the Supreme Court.

The truth of Atty. Bohol's testimony that respondent uttered to the former's son, Plaridel Samuel Bohol, the statement that, "Pag natanggal ako sa serbisyo kahit sang lupalop siya sa daigdig ay pupuntahan ko siya at uubusin ko and lahi niya," is bolstered by respondent's own conduct even before the Investigating Justice. As reported by the Justice, "the undersigned investigator finds it necessary to inform the Honorable Supreme Court that during the hearing of this case, the undersigned investigating Justice heard respondent judge uttering, "magkaubusan ng lahe'." Such threat of violence is absolutely unbecoming a judge who is expected to display proper decorum. Thus, in *Villaros vs. Orpiano*,[52] the Court emphasized that:

Time and time again, we have stressed that the behavior of all employees and officials involved in the administration of justice, from judges to the most junior clerks, is circumscribed with a heavy responsibility. Their conduct must be guided by strict propriety and decorum at all times in order to merit and maintain the public's respect for and trust in the judiciary. ...

Respondent tried to extricate himself from this problem by explaining that what he actually did was to approach Plaridel Samuel Bohol to say, "Sammy, please tell your father to go slow against me. My brothers are already mad at him. I do not like that we will have a family feud. Please tell him." Respondent further explained that his purpose for saying that to Plaridel Samuel Bohol was "[b]ecause his father had been filing cases against me and even these are unfounded and these are not true and fabrications, it caused me harassment and embarrassment. And I wanted Sammy to tell his father that these things are not good and stop it because this will not give us anything good in the future."[53]

As correctly stated by the Investigating Justice, such conduct is also a violation of Rule 2.04, Canon 2 of the Code of Judicial Conduct which provides that "a judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency."

It has also been admitted by respondent that he was a professor at the University of the East until his resignation in January of 2003,[54] and that he did not secure from this Court the required permit to teach.[55] Thus, he is liable for violation of Supreme Court rules and circulars.

From the foregoing, the Court finds respondent guilty of trying to influence the outcome of the administrative case and teaching law without the required permit, which constitute two counts of the less serious charge of

violation of Supreme Court rules, directives, and circulars under Section 9 (4), Rule 140 of the Rules of Court. Section 11 (B) of the same Rule provides:

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
- A fine of more than P10,000.00 but not exceeding P20,000.00.

Respondent is also guilty of uttering grave threats, which constitutes one count of the light charge of vulgar and unbecoming conduct under Section 10 (1), Rule 140 of the Rules. Section 11 (C) provides:

C. If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:

- A fine of not less than P1,000.00 but not exceeding P10,000.00; and/or
- Censure;
- Reprimand;
- Admonition with warning.

The Court sees it fit to impose a penalty of one-month suspension for each count of less serious charge; and a fine of P10,000.00 for the light charge.

WHEREFORE, respondent Judge Sibanah E. Usman is hereby found GUILTY of one (1) count of vulgar and unbecoming conduct under Section 10, Rule 140 of the Rules of Court for uttering grave threats, and two (2) counts of violation of Supreme Court rules and circulars under Section 9, Rule 140 of the same Rules for trying to influence the outcome of this administrative case and teaching law without the required permit. Respondent is SUSPENDED from office without salary and other benefits for a period of two (2) months, effective immediately upon service of herein Resolution; and imposed a fine of Ten Thousand Pesos (P10,000.00) to be paid within fifteen (15) days from finality of this Resolution.

SO ORDERED.

Puno, (Chairman), and Callejo, Sr., JJ., concur.

Tinga, J., no part. Close association with a party.

Chico-Nazario, J., on leave.

[1] Rollo, pp. 1-2.

[2] Rollo, pp. 7-8.

[3] Rollo, pp. 9-11.

[4] Rollo, pp. 77-78.

[5] Rollo, pp. 189-197.

[6] Rollo, p. 174; Attached rollo of RTJ-02-1713.

[7] Exhibit "E" of complainant.

[8] Exhibit "K" of complainant.

[9] Exhibit "L" of complainant.

[10] TSN dated September 7, 2004, 2:00 p.m., Cross-Examination of respondent Judge Sibanah Usman, p. 175.

[11] TSN dated September 7, 2004, 10:00 a.m., Direct Examination of Judge Sibanah E. Usman, p. 83.

[12] TSN dated June 5, 2003, 10:00 a.m., Direct Examination of Atty. Plaridel D. Bohol, Sr., pp. 29-34.

[13] TSN dated June 25, 2003, 2:00 p.m., Cross Examination of Atty. Plaridel D. Bohol, Sr., pp. 52-53.

[14] Id. at p. 55.

[15] Id. at p. 62.

[16] Id. at p. 72.

[17] Id.

[18] Id.

[19] Id. at p. 111.

[20] TSN dated June 30, 2003, 2:00 p.m., Cross-Examination of Atty. Plaridel Bohol, Sr., pp. 32-33.

[21] Id. at p. 35.

[22] Id. at p. 46.

[23] Id. at p. 55.

[24] Id. at p. 82.

[25] TSN dated June 25, 2003, 2:00 p.m., Cross-Examination of Atty. Plaridel Bohol, Sr., pp. 102-104.

[26] TSN dated June 30, 2003, 2:00 p.m., Cross-Examination of Atty. Plaridel Bohol, Sr., p. 37.

[27] TSN dated June 25, 2003, 2:00 p.m., Cross-Examination of Atty. Plaridel Bohol, Sr., pp. 56-57; and p. 62.

[28] Id. at p. 118.

[29] Id. at pp. 79-80.

[30] TSN dated June 30, 2003, 2:00 p.m., Cross Examination of Atty. Plaridel Bohol, Sr., pp. 46-49.

[31] TSN dated June 5, 2003, 10:00 a.m., Direct Examination of Atty. Plaridel Bohol, Sr., p. 35.

[32] TSN dated June 25, 2003, 2:00 p.m., Cross-Examination of Atty. Plaridel Bohol, Sr., pp. 84-87.

[33] Antonio K. Litonjua vs. Court of Appeals Justices Juan Q. Enriquez, Jr. and Bernardo Abesamis, A.M. No. CAJ-04-41, September 22, 2004.

[34] RE: AC No. 04-AM-2002 (Josefina Fria vs. Gemiliana De Los Angeles), A.M. No. CA-02-15-P, 430 SCRA 412 (2004).

[35] 296 SCRA 101 (1998).

[36] 69 Phil. 635, 643 (1940).

[37] Macariola vs. Asuncion, Adm. Case No. 133-J, 114 SCRA 77 (1982).

- [38] Vide: *Gan Tingco vs. Pabinguit*, No. 10439, 35 Phil. 81, 88 (1916).
- [39] TSN dated June 25, 2003, 10:00 a.m., Direct Examination of Atty. Plaridel Bohol, Sr., pp. 73-74.
- [40] TSN dated September 7, 2004, 10:00 a.m., Direct Examination of Respondent Judge Sibanah Usman, p. 83.
- [41] TSN dated June 30, 2003, 10:00 a.m., p. 5.
- [42] Deposition Upon Written Interrogatories to plaintiff Romulo Jabon, Rollo, pp. 529-534.
- [43] *Id.* at pp. 530-531.
- [44] G.R. No. 87743, August 21, 1990, 188 SCRA 830.
- [45] *Id.* at p. 837.
- [46] *Jaucian vs. Judge Salvacion B. Espinas*, A.M. No. RTJ-01-1641, May 9, 2002, 431 Phil. 597, 609.
- [47] A.M. No. 93-8-1204-RTC and A.M. No. RTJ-93-978, February 7, 1994, 229 SCRA 723.
- [48] *Id.* at pp. 729-734.
- [49] A.M. OCA IPI No. 04-2030-RTJ, Resolution dated Feb. 7, 2005, citing *De Guzman vs. Dy* (405 SCRA 311 [2003]); *Balsamo vs. Suan* (411 SCRA 189 [2003]); and, *Cruz vs. Iturralde* (402 SCRA 64 [2003]).
- [50] TSN of June 25, 2003, 10:00 a.m., p. 49.
- [51] *Id.* at pp. 50-51.
- [52] A.M. No. P-02-1548, October 1, 2003, 412 SCRA 396, 399-400.
- [53] TSN of September 7, 2004, 10:00 a.m., pp. 83-85.
- [54] TSN of September 7, 2004, 10:00 a.m., pp. 78-80.
- [55] TSN of September 7, 2004, 2:00 p.m., p. 175.

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