

**GEORGE M. MINOR, ALCAR D. AGOT, FRANCISCO J. DOSDOS, AND
BUENSORCESO CARPIO, COMPLAINANTS, VS. JUDGE DELFIN E.
AGBU, JUDGE LORETO M. QUINTO, RESPONDENTS.**

Adm. Matter No. MTJ-86-27. April 10, 1987

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PER CURIAM:

These Administrative Matters were consolidated since they involve the same issues, arise from the same set of facts and have the same respondents. Administrative Matter No. MTJ-86-27 is a complaint filed on October 13, 1986 by George M. Minor and four other members of the Board of Directors of the Zamboanga del Sur Electric Cooperative I, Inc. (ZAMSURECO) against Delfin E. Agbu, Municipal Circuit Trial Court Judge of Ramon Magsaysay, Midsalip and Don Mariano Marcos, Province of Zamboanga del Sur and Loreto M. Quinto, Municipal Circuit Trial Court Judge of the Municipal Circuit Court of Dumingag, Mahayag and Josefina, also of the same province as elective members of the Board of Directors of ZAMSURECO, Judge Agbu from 1980 and Judge Quinto from 1986.

The complainants invoke an en banc resolution of the Supreme Court of May 29, 1980 enjoining judges from acting as directors of an electric cooperative on the ground that their duties and functions as such will prejudice and interfere with the expeditious and proper administration of justice.[1]

The respondent judges are charged with dishonesty, breach of trust and gross misconduct.

The complainants pray that the respondent judges be ordered (a) to desist from acting and sitting as directors of ZAMSURECO, (b) to restitute or refund to the cooperative all financial emoluments availed of, received and actually enjoyed as such Directors, (c) for having committed dishonesty, breach of trust and misconduct as members of the bench and Bar, that they be subjected to grave disciplinary action if not outright dismissal from the service as judges and disbarment as attorneys, as well as for such administrative sanctions as the law may warrant.

Complying with this Court's en banc resolution dated November 11, 1986 the respondents filed separate ANSWERS but were one in asserting that they have a perfect right to become members of the Board of Directors of ZAMSURECO and entitled to all rights and privileges appurtenant thereto citing Section 21 paragraph 2 of P.D. No. 269.[2] The respondents also assert that sitting in the Board of Directors of ZAMSURECO does not interfere with the performance of their functions since the Board meets only twice a month and on Saturdays.

Respondent Judge Agbu admitted the existence of the ruling in the case cited in the complaint but expressed doubt about "the propriety of the ruling because its (sic) not a ruling on the merit of a case but a mere denial by the Supreme Court to the judge who sought permission to act and sit in the board of directors on the theory that sitting in the board may interfere (sic) with the function of the judge, which is manifestly erroneous because said judge should have not ask (sic) permission under the above-quoted provision of law. Besides, had it been the intention of the Supreme Court to prohibit judges from becoming director or holding any position therein, it should have circularized said ruling for the guidance of all judges serving as director in different electric cooperative (sic)

throughout the country."

Respondent Judge Agbu asserted that he does not question the Supreme Court's power of supervision and control but contends that in the exercise of such authority, individual rights should be respected. He asserts impairment of substantive rights granted him by law and invokes the equal protection of laws because he is singled out in the prohibition while the complainants who are also government employees are allowed to continue.

On January 2, 1987 this Court received a telegram from Rustico V. Villorejo informing that MTC Judge Delfin Agbu and MTC Judge Loreto Quinto were still sitting as Directors of ZAMSURECO despite the letter-directive from Justice Maximo A. Maceren, Assistant to the Court Administrator,[3] to resign from their positions. The Villorejo telegram requesting implementation of said letter-directive and the action taken on it is Administrative Matter No. 87-1-2705-TEL.

This Court by resolution dated January 8, 1987 directed MTC Judges Delfin Agbu and Loreto Quinto to tender their resignations immediately from their positions or suffer the consequences, considering that their acting and sitting as such will constitute an interference in the expeditious performance of their judicial functions.

On January 28, 1987 the respondent judges filed a motion for reconsideration of the en banc resolution of January 8, 1987 stating that the letter-directive of September 18, 1986 of Justice Maceren was premised on a question that "if it is true, you are directed to resign." Because the respondents did not consider the telegraphic complaint true, they did not resign believing that to do so would be admitting false allegations against them.

They also referred to Administrative Matter No. MTJ-86-27 (George Minor, et al. v. Judges Delfin E. Agbu and Loreto Quinto) to which they had filed their ANSWER as required. They disclaimed any desire to defy this Court but prayed the court to reconsider implementation of the directive to resign until Adm. Matter No. MTJ-86-27 is decided.

On February 12, 1987 this Court denied the motion for reconsideration and resolved to require the respondent judges (a) to SHOW CAUSE why disciplinary action should not be taken against them for their failure to resign immediately as directors of ZAMSURECO and (b) to comply within 72 hours with the resolution of January 8, 1987.

Meanwhile the President and Chairman of ZAMSURECO and Rustico Villorejo informed the Chief Justice that the respondent judges continue to sit in the Board.[4]

Respondent Judge Quinto in a letter dated February 26, 1987 and received on March 2, 1987 informed this Court of his compliance with the resolution of February 12, 1987 which he received on February 23[rd]. However, he tendered a conditional resignation, hoping that on the basis of his manifestation, this Court would reconsider its decision.

He states that lower court judges are "the lowest paid and impoverished" because they are still sending their children to school and that the P800 allowance as director helps alleviate the financial problem of his family. He repeats the assertion that the twice a month meetings on Saturdays do not interfere with the performance of his functions due to the "few number of pending cases" in his court. Furthermore, he reiterates that P.D. No. 269 does not prohibit judges from being elected as officers of electric cooperatives and that the Supreme Court policy disqualifying them is contrary to P.D. 269.

Respondent Judge Delfin E. Agbu filed his explanation dated February 24, 1987 and received by this Court on March 10, 1987. He expressed his belief that the Supreme Court directive is arbitrary and therefore filed a motion for reconsideration which the Supreme Court denied in its February 12, 1987 resolution. He reiterated that it was

never his intention to defy the directive of the Supreme Court but was simply asking for clarification because in a similar case, Administrative Matter No. MTJ-86-27 (Minor, et al v. Agbu and Quinto) respondents raised factual and legal issues which the Supreme Court has not ruled on. Unlike Judge Quinto, respondent Judge Agbu has not complied with the directives to resign from the ZAMSURECO board.

The legal issues raised by the respondents are not new. In *Lapena v. Marcos*, Administrative Matter No. 1969-MJ. June 29, 1982, 114 SCRA 574, 578, this Court held:

. . . Judges and personnel of the Judiciary are not explicitly disqualified by P.D. 269 to become members or Directors of Electric Cooperatives. However, We have resolved and adopted in our resolution dated May 29, 1980[5] to enjoin judges from acting as directors of an electric cooperative on the ground that their duties and function as such will prejudice and interfere with the expeditious and proper administration of justice. This policy adopted by the Court enjoining judges from participating in the affairs of electric cooperatives stands and must be complied with.

This policy was adopted by the Supreme Court in the exercise of its constitutional power of administrative supervision over all courts and the personnel thereof to ensure impartial, expeditious and proper administration of justice. It has been consistently applied from the date of its promulgation on May 29, 1980 and the attention of the respondent judges was repeatedly called to it. They were directed to resign from their positions as directors of ZAMSURECO in the letter-directive of September 18, 1986. The legal issues they raise in their answers have been squarely dealt with in *Lapena v. Marcos*, supra, in an en banc resolution of the Supreme Court published in 114 SCRA 572. In an en banc resolution dated January 8, 1987 this Court directed the respondents to tender their resignation from their positions as directors of ZAMSURECO immediately or suffer the consequences; on February 12, 1987 this Court denied their joint motion for reconsideration and resolved to require them to show cause why disciplinary action should not be taken against them and to comply within 72 hours from notice, with the resolution of January 9, 1987. Respondent Judge Quinto complied by tendering a conditional resignation accompanied with a manifestation seeking a reconsideration of this Court's ruling. While respondent Judge Agbu submitted an explanation, he has not complied with this Court's resolutions of January 8, 1987 and February 12, 1987. He reiterates the view that the directive is arbitrary and that he seeks a clarification because this Court had not yet ruled on Administrative Matter No. MTJ-86-27 (George M. Minor, et al. v. Judge Delfin E. Agbu and Loreto Quinto).

Considering the above, this Court finds that the failure of the respondent judges to comply with the policy enjoining them from participating in the affairs of electric cooperatives after this Court had directed them to tender their resignation by en banc resolution of January 8, 1987 reiterated in the resolution dated February 12, 1987 merits disciplinary action.

Respondent Judge Loreto Quinto who filed a conditional resignation is hereby reprimanded for failure to comply immediately with this Court's directive.

Respondent Judge Agbu who obdurately refuses to comply with this Court's resolutions to resign his position as director of ZAMSURECO is hereby suspended from his position as judge of the Ramon Magsaysay, Don Mariano Marcos and Midsalip Municipal Circuit Trial Court for a period of six (6) months.

Considering further that from January 13, 1987 when the respondents received this Court's Resolution of January 8, 1987 directly addressed to them requiring them immediately to resign from their positions as directors of ZAMSURECO, this Court had made abundantly clear its firm policy inhibiting judges from sitting in the board of electric cooperatives, the respondent judges can not in good faith claim that they are entitled to the per diems, allowances and other benefits they drew as ZAMSURECO directors from that date. This Court therefore directs

the respondent judges to make restitution of the amounts received from Zamsureco starting January 13, 1987.

SO ORDERED.

Teehankee, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Sarmiento, and Cortes, JJ., concur.

Yap and Fernan, JJ., on leave.

Bidin, J., certified by J. Teehankee, that he voted for and concurred in the above Resolution.

[1] Administrative Matter No. 12691-MC, Re: Request of Judge Concepcion Salud for permission to act and sit as Director of Cagayan Electric Cooperative (CAGELCO): Minutes of en banc resolution, May 29, 1980, reiterated in *Lapena v. Marcos*, Administrative Matter No. 1969-MJ, June 29, 1982, 114 SCRA 572 and in Administrative Matter No. 84-8-4156-MTC.

[2] National Electrification Decree of August 6, 1973.

[3] Acting on a telegram from Atty. Tecson, Chairman, Zamboanga del Sur Human Rights and Reconciliation Organization requesting disqualification of MTC Judges Agbu and Quinto, addressed to the Chief Justice and received on September 15, 1986.

[4] Letters to the Chief Justice, dated February 9, 1987 and February 5, 1987, respectively.

[5] Re: Letter-Protest against Judge Cesar Maravilla to sit and act as a Director of the Tablas Island Cooperative, Inc. (TIBLCO): Minutes of en banc resolution, August 30, 1984)

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