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FIRST DIVISION

[A.M. No. 1810-CTJ. June 29, 1979]

ANGELINA S. SALCEDO, *complainant, vs.* **JUDGE ENRIQUE B. INTING,** *respondent.*

[A.M. No. 1995-CTJ. June 29, 1979]

SAMUEL C. OCCEÑA, *complainant, vs.* **JUDGE ENRIQUE B. INTING,** *respondent.*

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE CHARGE; MERE RECEIPT AND APPROPRIATION OF TREASURY WARRANTS DOES NOT PROVE THE EXISTENCE OF *MALA FIDE* TO SUBJECT A JUDGE TO ADMINISTRATIVE SANCTION; CASE AT BAR.— The respondent judge and the other city judges who received overpayments had not in any manner intervened or participated one way or the other in the issuance of their treasury warrants. The resolution of the City Fiscal of Davao absolving the respondent judge of any criminal liability in receiving the overpayments in salary is well taken. The respondent can not be held liable in this administrative case filed against him because the elements of malice, corrupt or fraudulent acts were found to be lacking. The mere receipt and appropriation of the proceeds of the various treasury warrants by the respondent payee herein, motivated by his honest and firm belief that they were legally due him, does not prove the existence of *mala fide* to subject him to administrative sanction. As this Court has repeatedly ruled, administrative proceedings are "in their nature highly penal in character and are to be governed by the rules of law applicable to criminal cases. The charges must, therefore, be proved beyond a reasonable doubt."

2. ID.; ID.; ID.; A JUDGE SHOULD NOT BE MADE LIABLE FOR SOMETHING HE DID NOT FALSELY STATE.— The statements "PENDING ADM. CASE, 'NONE'" stamped on the face of the applications were made by employees of this Court.

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The respondent judge should not be made liable for something he did not falsely state.

3. ID.; ID.; **TO WARRANT DISCIPLINARY ACTION, THE MISFEASANCE OR MALFEASANCE OF A JUDGE MUST HAVE DIRECT RELATION WITH THE PERFORMANCE OF HIS OFFICIAL DUTIES.**— The misfeasance or malfeasance of a judge, to warrant disciplinary action must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of said judge.

RESOLUTION

FERNANDEZ, *J.*:

This is a joint resolution of the above-entitled administrative cases filed against City Judge Enrique B. Inting of Davao City.

I — *ADMINISTRATIVE MATTER NO. 1810-CTJ*

In a letter complaint dated January 7, 1978 duly supported by affidavits and other documents attached thereto, the complainant, Angelina S. Salcedo, charged the respondent judge with violation of the Anti-Graft and Corrupt Practices Act (R.A. 3019) and Article 315 of the Revised Penal Code.

Specifically, the charges are: (1) that the respondent, from July 1, 1964 to June 30, 1965 and January 1, 1967 to September 30, 1974, had collected from the government overpayments of his salary in the total amount of ₱38,100.00 to which he had no right, using the said amount for his own personal benefit, to the prejudice of the Republic of the Philippines so that he is liable under the Anti-Graft and Corrupt Practices Act and the Revised Penal Code;[1] and (2) that in a series of applications for leave of absence with pay (June 2-8, 1977; July 20-25, 1977; and August 8-12, 1977) filed with the Supreme Court, the respondent judge made it appear that he had no pending

[1] *Rollo*, pp. 1-5.

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administrative case, said representation being false because as of March 22, 1976, Administrative Matter No. 1229-CTJ was already filed against him and that said administrative case had been already referred to the Executive Judge of the Court of First Instance of Davao for investigation, report and recommendation and the said investigation, report and recommendation by the Executive Judge of the Court of First Instance of Davao City had not yet been terminated.[2]

The administrative complaint was referred to City Judge Enrique B. Inting for comment.

In a second indorsement dated February 23, 1978, the respondent judge alleged that the two (2) charges of overpayments of his salary and falsification of his applications for leave of absences had been the subject of criminal charges for estafa through falsification of public documents and for corrupt practices under the Anti-Graft and Corrupt Practices Act filed against him before the City Fiscal of Davao by the complainant herein and his counsel Atty. Samuel Occeña. As comment to the charges, the respondent submitted his counter-affidavits filed with the City Fiscal's Office dated January 25, 1978, January 30, 1978 and February 1, 1978, respectively. The resolution of Special Counsel Rodrigo R. Duterte dated February 14, 1978 duly approved by Acting City Fiscal Alfredo B. Santos on February 23, 1978 dismissing the charges for insufficiency of evidence was likewise submitted.[3]

The respondent also submitted as addendum to his comment the list of overpaid City Judges furnished him by the Acting Officer in-Charge of the Fiscal Management & Budget Office of this Court, (Exhibits "1" & "1-A").[4] In his supplemental comment, the respondent bewailed the fact that he was singled out of the numerous judges who received overpayments of their salaries and stated that some City Judges like himself who were

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[2] *Rollo*, pp. 6-10.

[3] *Rollo*, pp. 11-34.

[4] *Ibid.*, pp. 71-75.

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recipient of the alleged overpayments were allowed to retire by just deducting the overpayments received by them from the proceeds of their respective retirement pay by this Court.[5]

A perusal of the record of this case shows that the respondent judge may not be held criminally or administratively liable for the overpayments of his salary. The said overpayments commenced and were made possible by the mistake of construction accorded to statutes providing salary increases of city judges by Financial and Budget Officers of the Department of Justice. This happened before the transfer of the supervision of all courts to this Court by the new Constitution. The respondent judge and the other city judges who received overpayments had not in any manner intervened or participated one way or the other in the issuance of their treasury warrants. The resolution of the City Fiscal of Davao absolving the respondent judge of any criminal liability in receiving the overpayments in salary is well taken. The respondent can not be held liable in this administrative case filed against him because the elements of malice, corrupt or fraudulent acts were found to be lacking. The mere receipt and appropriation of the proceeds of the various treasury warrants by the respondent payee herein, motivated by his honest and firm belief that they were legally due him, does not prove the existence of *mala fide* to subject him to administrative sanction. As this Court has repeatedly ruled, administrative proceedings are "in their nature highly penal in character and are to be governed by the rules of law applicable to criminal cases. The charges must, therefore, be proved beyond a reasonable doubt."[6]

The second charge against the respondent judge of falsely stating in his applications for leave with pay that he had no pending administrative case when in fact Administrative Matter No. 1229-CTJ was filed as early as April 1976 with this Court. should likewise be dismissed.

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[5] *Ibid.*, pp. 46-47.

[6] *Bartolome vs. de Borja*, 71 SCRA 153, 160; *Meimban vs. Balite*, 72 SCRA 380, 383.

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The record shows that the three (3) applications for leave of absence with pay[7] filed by respondent bear no such false statements made by respondent himself that he has no pending administrative case. The statements "PENDING ADM. CASE, 'NONE'" stamped on the face of the applications were made by employees of this Court. The respondent judge should not be made liable for something he did not falsely state. Even granting that said leaves of absence were applied for by the respondent judge with knowledge of his pending administrative case, his act is sanctioned by this Court's Memorandum Circular dated November 29, 1977, which reads:

"Please be informed that the long standing policy of not granting leaves with pay to officials and employees with pending administrative cases against them has been changed. Henceforth, a mere pendency of an administrative case against an official and employee shall not prejudice his right to vacation leave with pay 'in view of the presumption of innocence in favor of the respondent.' He shall be entitled to a vacation leave with pay unless otherwise ordered by the Court *en banc* or the Division to which the case pertains. Officials and employees are hereby enjoined to favorably act on request for vacation leaves even if there is a pending administrative case filed against him."

II — *ADMINISTRATIVE MATTER NO. 1995-CTJ*

In a verified complaint dated August 8, 1978, Samuel C. Occeña, a member of the Philippine Bar, charged the respondent judge, Enrique B. Inting, with serious misconduct and conduct prejudicial to the judiciary.

The complainant alleged that he is the counsel of Mrs. Angelina S. Salcedo, Assistant Docket Clerk of the City Court of Davao, who is the complainant against the respondent in Administrative Case No. 1229-CTJ for oppression, serious misconduct and conduct prejudicial to the judiciary, filed on March 22, 1976, and in Administrative Case No. 1810-CTJ for gross dishonesty filed on January 7, 1978; that the respondent

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[7] *Rollo*, pp. 8-10.

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judge has taken personal offense at complainant's representation of Mrs. Angelina Salcedo; that the respondent judge has commenced a campaign of verification against the complainant; that on or about March 30, 1978, the respondent judge made a statement to the MINDANAO DAILY MIRROR, a daily newspaper widely circulated in Davao City and the rest of Mindanao, falsely alleging that the complainant, a "lawyer of Salcedo x x x has been maintaining a long feud against him. He said that Occeña has filed several cases of administrative, criminal and contempt charges against him as city judge in order to harass him."; that the false and derogatory statement was published in the March 31, 1970 issue of the MINDANAO DAILY MIRROR; that on Sunday afternoon, August 6, 1978, a CONSTITUENT ASSEMBLY MEETING of the Davao City High School Parents-Teachers Association, of which the complainant was president, was scheduled; that the respondent, who had not been attending meetings of such association before, attended this particular meeting; that the complainant was presiding over the meeting attended by about five hundred (500) persons, more or less, in the auditorium of the Davao City High School; that when Item V of the *Order of Business* was reached, the respondent judge, without being recognized by the Presiding Officer, went up to the stage and against the will of the complainant, grabbed the microphone that complainant was using and despite being ruled out of order, said respondent judge disrupted the meeting by delivering a long speech; that thereafter, the respondent judge attempted to preside over the meeting and shouted over the microphone for the holding of elections, which was not in the agenda; that the said behavior of the respondent judge scandalized many parents, who left the auditorium in disgust; that because of the disorder caused by the respondent judge, the Constituent Assembly which entailed considerable expenses on the part of the Davao City High School Parents-Teachers Association could not be held; that after the meeting was disrupted, the respondent judge continued shouting unsavory remarks on the floor of the auditorium; that the incidents complained of herein and in the complaints of Mrs. Salcedo are not the only instances demonstrative of respondent's

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propensity for violence; and that in Administrative Case No. 1229-CTJ, the Supreme Court was requested to take judicial notice of the letter complaint of former Mayor of Davao City, Atty. Rodolfo Sarenas, sent to the President of the Philippines and referred to this Court, wherein former Mayor Sarenas charged that he was publicly manhandled by the respondent judge.

In his comment dated October 3, 1978,[8] the respondent judge alleged that the charge regarding the publication in the March 31, 1978 issue of the Mindanao Daily Mirror is a repetition of the Fourth Petition for Indirect Contempt in Administrative Matter No. 1229-CTJ in which Atty. Samuel C. Occeña is counsel for the complainant Angelina S. Salcedo; that the charge was later repeated in the Sixth Supplemental Complaint and Petition for Indirect Contempt also filed in Administrative Matter No. 1229-CTJ; that the Fourth Petition for Indirect Contempt and the Sixth Supplemental Complaint and Petition for Indirect Contempt have been submitted for resolution to the Executive Judge of the Court of First Instance of Davao City, who conducted the hearing of Administrative Matter No. 1229-CTJ; that in the hearing of the Fourth Petition for Indirect Contempt and Sixth Supplemental Complaint and Petition for Indirect Contempt in Administrative Matter No. 1229-CTJ, the complainant, through Atty. Samuel C. Occeña, presented evidence only consisting of the issue of the Mindanao Daily Mirror dated March 31, 1978 as Exhibits "A" and "A-1" but said exhibits were denied admission by the Executive Judge in an order dated May 30, 1978.

The respondent judge further averred that the alleged false and derogatory statement in the Mindanao Daily Mirror issue of March 31, 1978 did not come from him; and that he merely furnished the reporter of the Mindanao Daily Mirror with copies of respondent's affidavit and the resolution of the City Fiscal of Davao which supported respondent's charge of libel against Atty. Samuel C. Occeña filed with the City Fiscal's Office.

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[8] *Rollo*, pp. 17-63.

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On the charge of having allegedly disrupted the meeting of the Davao City High School Parents-Teachers Association on August 6, 1978, the respondent judge said that he was merely exercising his right of free speech and he did not disrupt the meeting; that in advocating the holding of an election in the meeting of August 6, 1978, the respondent judge never made any unsavory remark against the complainant; that he did not misbehave and that he never mentioned the name of Atty. Occeña; that the respondent only delivered a short talk after he was requested by Atty. Nidea who had the floor; that the respondent did not grab from the complainant the microphone he was using because the respondent used the microphone installed on the floor; and that if there was any disturbance or disruption of the meeting, it was caused by Atty. Occeña himself when he ruled out and silenced everybody who spoke against the business of discussing the proposed Constitution.

To support his explanation, the respondent judge attached the joint affidavit of Perla Palma Gil and Emilia S. Sitjar[9] and the affidavit of Atty. Alfredo B. Nidea.[10]

There is no showing that the respondent judge has maliciously issued any statement for publication to the Mindanao Daily Mirror. Neither is there any sufficient evidence to show that the respondent had misbehaved or acted in a manner unbecoming of a City Judge at the meeting of the Davao City High School Parents-Teachers Association on August 6, 1978. The version of the respondent judge is supported by the joint affidavit of Perla Palma Gil and Emilia S. Sitjar and of the affidavit of Alfredo B. Nidea.

It is to be noted that the acts of the respondent judge complained of have no direct relation with his official duties as City Judge. The misfeasance or malfeasance of a judge, to warrant disciplinary action must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and

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[9] Annex "B" to Comment, *Rollo*, pp. 51-52.

[10] Annex "C" to Comment, *Rollo*, pp. 53-55.

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failure to discharge the duties of said judge. Thus in *Amosco vs. Magro*,[11] this Court said:

"x x x Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer * * * It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office * * *."

WHEREFORE, the two (2) administrative complaints against the respondent, Judge Enrique B. Inting, Administrative Matters Nos. 1810-CTJ and 1995-CTJ, are hereby DISMISSED for lack of merit.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

EN BANC

[A.M. No. 10469-MC. June 29, 1979]

EXECUTIVE JUDGE J. CESAR SANGCO, *complainant, vs.* **BIENVENIDO G. PALILEO,** *respondent.*

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[11] Administrative Matter No. 439-MJ. 73 SCRA 107.