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EN BANC

[A.M. No. 1106-CFI. January 24, 1977]

ARMANDO B. CLEDERA, *complainant, vs.* **DELFIN VIR. SUNGA, DISTRICT JUDGE, BRANCH I CFI, CAMARINES SUR,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINT AGAINST A JUDGE MAY BE DISMISSED WITHOUT PREJUDICE IN VIEW OF THE DEATH OF THE COMPLAINANT AND THERE BEING NO DOCUMENTARY OR TESTIMONIAL EVIDENCE SUBMITTED TO SUBSTANTIATE THE CHARGES.— In view of the death of the complainant and there being no testimonial or documentary evidence submitted to substantiate the charges, the investigating Justice recommends the dismissal of this complaint. PREMISES CONSIDERED, this administrative complaint is dismissed without prejudice however to its reinstatement by any other interested party.

FERNANDO, ***J: concurring and dissenting:***

1. LEGAL AND JUDICIAL ETHICS; JUDGES; THE GUILT OF A JUDGE AGAINST WHOM AN ADMINISTRATIVE COMPLAINT WAS LODGED MUST BE PROVED BEYOND REASONABLE DOUBT.— To my mind, there is no question about the correctness of the result reached. The case must be dismissed. This brief opinion therefore is primarily a concurrence. That would be in line with the well-settled principle first announced by Justice Malcolm in the leading case of *In re* Horrilleno, decided as far back as 1922, to the effect that the guilt of a judge against whom an administrative complaint is lodged "must be proved beyond reasonable doubt." Here there is no proof at all. To repeat, concurrence is more than indicated.

2. ID.; ID.; SUPREME COURT IS EMPOWERED TO LOOK INTO AN ADMINISTRATIVE COMPLAINT AGAINST A JUDGE EVEN IF THE COMPLAINANT IS NOT AVAILABLE.— The dissenting part then is certainly minimal. It is induced by caution,

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ex abundante cautela, to repeat a well-worn phrase. As far as the opinion of the Court goes, it can be truly said that Justice Muñoz Palma has lived up to the usual care with which she handles her assignments as *ponente* for the Court. If I add a few words of dissent then, it is only to express my conviction that with the administrative supervision over inferior courts now vested in this Tribunal, I would not rule out the power of this Court in appropriate cases to look into an administrative complaint through an investigator, whether from its staff or from the judiciary, even if the complainant is no longer available. There may be reliable witnesses, and the liability of respondent, if any, ascertained. That to me is to assure effectiveness of the competence now vested in this Court. Hence this observation by way of a dissent.

RESOLUTION

MUÑOZ PALMA, *J.*:

Respondent Judge Delfin Vir. Sunga of the Court of First Instance of Camarines Sur, Branch I, was charged in a complaint filed by Atty. Armando B. Cledera with "dishonesty, partiality, abuse of authority, insubordination and falsification of official documents." We required respondent to comment on the complaint and upon receipt of the same (pp. 41-45, *rollo*) the matter was referred to Justice Vicente Santiago, Jr. of the Court of Appeals for investigation, report and recommendation. (p. 118, *rollo*)

The Report of Justice Vicente Santiago, Jr. dated August 9, 1976 shows the following:

The case was set for hearing on several dates with notices to both complainant and respondent but the hearing could not proceed due to motions for postponement of Atty. Cledera on the ground of ill health, he having suffered mild strokes which resulted in paralysis of half of his body and confinement in a hospital. Sometime on August 6, 1976, respondent Judge filed with the Honorable Investigator a motion to dismiss the complaint for the reason that the complainant had died and was interred on July 10, 1976, thereby rendering the charges moot and

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academic. A certification on the death of Armando B. Cledera was submitted by respondent.

In view of the death of the complainant and there being no testimonial or documentary evidence submitted to substantiate the charges, the investigating Justice recommends the dismissal of this complaint.

PREMISES CONSIDERED, this administrative complaint is dismissed without prejudice however to its reinstatement by any other interested party.

SO ORDERED.

Teehankee, Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., and *Martin, JJ.*, concur.

Ruiz Castro, J., concur in Justice Fernando's concurring and dissenting opinion.

Fernando, J., concurs and dissents in a separate opinion.

FERNANDO, *J., concurring and dissenting:*

To my mind, there is no question about the correctness of the result reached. The case must be dismissed. This brief opinion therefore is primarily a concurrence. That would be in line with the well-settled principle first announced by Justice Malcolm in the leading case of *In re Horrilleno*,[1] decided as far back as 1922, to the effect that the guilt of a judge against whom an administrative complaint is lodged "must be proved beyond reasonable doubt."[2] Here there is no proof at all. To

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[1] 43 Phil. 212.

[2] *Ibid.* 215. Cf. *Enriquez v. Araula*, Adm. Case No. 270-J, Dec. 18, 1973, 54 SCRA 232; *Tombo v. Medina*, Adm. Case No. 929, Jan. 17, 1974, 55 SCRA 13; *Lampauog v. Villarojo*, Adm Case No. 381-MJ, Jan. 28, 1974, 55 SCRA 304; *Bartolome v. De Borja*, Adm. Case No. 1096, May 31, 1976, 71 SCRA 153; *De Guzman v. De Leon*, Adm. Case No. 1328; MJ, July 30, 1976; *Meimban v. Balite*, Adm. Case No. 131-MJ, Aug. 21, 1976; *Tolentino v. Tiong*, Adm. Case No. 535-MJ, Aug. 21, 1976; *Amosco v. Magro*, Adm. Case No. 439-MJ, Sept. 30, 1976.

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repeat, concurrence is more than indicated. The dissenting part then is certainly minimal. It is induced by caution, *ex abundante cautela*, to repeat a well-worn phrase. As far as the opinion of the Court goes, it can be truly said that Justice Muñoz Palma has lived up to the usual care with which she handles her assignments as *ponente* for the Court. If I add a few words of dissent then, it is only to express my conviction that with the administrative supervision over inferior courts now vested in this Tribunal, I would not rule out the power of this Court in appropriate cases to look into an administrative complaint through an investigator, whether from its staff or from the judiciary, even if the complainant is no longer available. There may be reliable witnesses, and the liability of respondent, if any, ascertained. That to me is to assure effectiveness of the competence now vested in this Court. Hence this observation by way of a dissent.

However, to repeat, as to this particular case, I am in agreement with the result reached.

Castro, C.J., concurs.

SECOND DIVISION

[G.R. No. L-45018. January 24, 1977]

ALEJANDRO V. RATILLA, *petitioner, vs.* **HONORABLE LAURO L. TAPUCAR and FLORESITA JAMORA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; COURTS; JURISDICTION; DETERMINED BY THE TOTALITY OF THE CLAIMS AS ALLEGED IN THE COMPLAINT INCLUDING DAMAGES.— We hold that the