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EN BANC

[A.M. No. RTJ-90-483. September 25, 1998]

**ATTY. ANTONIO T. GUERRERO,** *complainant, vs.* **HON. ADRIANO VILLAMOR,** *respondent.*

[A.M. No. RTJ-90-617. September 25, 1998]

**GEORGE CARLOS,** *complainant, vs.* **HON. ADRIANO VILLAMOR,** *respondent.*

**SYNOPSIS**

George Carlos, thru Atty. Antonio Guerrero, filed with the Regional Trial Court of Cebu a civil action for damages against Judge Villamor for dismising five (5) Criminal Cases Nos. N-0989 to N-0993 against Gloria Naval and her co-accused. Judge Villamor instead of answering the complaint issued an order in Criminal Cases Nos. N-0989 to N-0993 declaring Carlos and his lawyer, Antonio Guerrero guilty of direct contempt for "degrading the respect and dignity of the court through the use of derogatory and contemptuous language" before the court. Carlos and Atty. Guerrero went to this Court on a petition for *certiorari* and this Court annulled the contempt order issued by Judge Villamor.

Atty. Guerrero and Carlos then filed these instant administrative complaints against Judge Villamor for serious misconduct, ignorance of the law, knowingly rendering an unjust judgment, misfeasance, malfeasance and neglect of duty for issuing an order declaring both of them guilty of direct contempt.

The Court agreed with the recommendation of the investigating Justice recommending the dismissal of the complaints againt respondent Judge.

With regard to the charge of malfeasance, misfeasance, neglect of duty or misconduct, complainants have not established a *prima facie* case against respondent judge. The Court concurs with the findings of the investigating Justice

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that the acts or omission allegedly constituting any of these offenses have either not been spelled out with definite specificity, or the causal connection between the given act/omission and the resulting offense/s not logically demonstrated. Respondent, in issuing his erroneous contempt order, was not moved by ill-will or by an impulse to do an injustice. Complainants have not presented evidence or offered logical arguments tending to show that bad faith accompanied the issuance of the contempt order. Bad faith is not presumed and he who alleges the same has the onus of proving it. Complainants have not discharged that burden of proof sufficiently.

## SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTION; DIRECT CONTEMPT; CONTEMPTUOUS LANGUAGE USED IN A PLEADING MUST BE SUBMITTED TO THE SALA OF THE RESPONDENT JUDGE.** — The direct contempt order of the respondent judge, under the attending circumstances it was issued, appears to be clearly erroneous. The supposedly contemptuous language used in a pleading was not submitted to respondent, but filed in another court presided by another judge stationed in Cebu, literally miles away from where respondent holds court in Leyte.

2. **ID.; ID.; ID.; FORMAL HEARING NOT NECESSARY.** — The fact that respondent did not accord complainants a hearing nor informed them beforehand of the charges relative to the contempt incident cannot, without more, be indicative of bad faith or malice. For, respondent labored under the impression, mistaken as it turned out to be, that complainants committed an act constituting direct contempt, summarily punishable. Assuming, as respondent did assume, that complainants did indeed commit an act punishable by direct contempt, then a formal hearing would hardly be necessary.

3. **LEGAL AND JUDICIAL ETHICS; JUDGES; LIABILITIES; CHARGE FOR IGNORANCE OF THE LAW OR RENDERING AN UNJUST JUDGMENT WILL NOT PROSPER AGAINST A JUDGE ACTING IN GOOD FAITH.** — Conversely, a charge for either ignorance of the law or rendering an unjust judgment will not prosper against a judge acting in good faith. Absent

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the element of bad faith, an erroneous judgment cannot be the basis of a charge for said offenses, mere error of judgment not being a ground for disciplinary proceedings.

## DECISION

**QUISUMBING, *J.*:**

In a sworn letter-complaint[1] addressed to this Court through the Court Administrator, dated March 8, 1990, Atty. Antonio Guerrero charges Judge Adriano Villamor of the Regional Trial Court at Naval, Sub-Province of Biliran, Leyte, Branch 16, with serious misconduct, ignorance of the law, knowingly rendering an unjust judgment, misfeasance, malfeasance and neglect of duty for issuing an Order[2] dated December 11, 1987 declaring the complainant and one George Carlos guilty of direct contempt.

In a separate verified complaint, involving exactly the same incident, George Carlos also charges Judge Adriano Villamor with substantially the same offenses.[3]

By resolution dated February 5, 1991, this Court referred to Associate Justice Cancio C. Garcia of the Court of Appeals the complaint of Atty. Guerrero, docketed as Administrative Matter (A.M.) RTJ 90-483, for investigation, report and recommendation. This was followed by another resolution,[4] pursuant to which the records of the case relating to Carlos' complaint, docketed as A.M. RTJ-90-617, were forwarded to said investigator for consolidation with A.M. RTJ 90-483.

The said administrative matters have now to be resolved in view of respondent's pending claims for gratuity granted by this Court per its Resolution dated April 12, 1994, which reads as follows:

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[1] *Rollo* of RTJ-90-483, p. 1.

[2] Exhibit "D", *Rollo* of RTJ-90-483, pp. 10-11.

[3] *Rollo* of RTJ-90-617, p. 1.

[4] *Id.* at 99.

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"A.M. No. RTJ-90-474 (*Clemencio C. Sabitsana, Jr. vs. Judge Adriano Villamor*, Regional Trial Court, Branch 16, Naval, Leyte) and A.M. No. RTJ-90-606 (*Clemencio C. Sabitsana, Jr. vs. Judge Adriano Villamor*, Regional Trial Court, Branch 16, Naval, Leyte) — Acting on the plea for mercy and compassion, dated February 2, 1994, filed by counsel for respondent judge, and it appearing that the Court in its *per curiam* resolution, dated February 7, 1992, amended the dispositive portion of its decision, dated October 4, 1991, by allowing Judge Villamor to enjoy all vacation and sick leave benefits that he has earned during the period of his government service and in the resolution of May 11, 1993, denied the motion for reconsideration filed by the respondent for having been filed late, and although the Court will not condone the wrongdoings of any member of the bench, neither will it negate any move to recognize and remunerate their lengthy service in the government, more so, if this will greatly benefit the last days of their remaining life, the Court Resolved to GRANT former Judge Adriano Villamor a gratuity equivalent of 25% of his retirement benefits. The payment of this benefit, however, shall be subject to the availability of funds and the usual requirements. This ruling is *pro hac vice* and is not a precedent for other cases."

As gleamed from the report by the Investigating Justice, the antecedent facts of the present consolidated cases are as follows:

Sometime in November 1968, one Gloria Pascubillo filed a complaint against George Carlos for quieting of title. Docketed as Civil Case No. B-0168 in the Regional Trial Court at Naval, Leyte, the case ended in a compromise agreement approved by the court whereby Carlos agreed to deliver possession of the property in question to Pascubillo who, in turn, undertook to pay the former the sum of ₱5,000.00 as purchase price. For some reason or another, the judgment by compromise remained dormant for five (5) years.

On November 23, 1977, Gloria Naval, nee Pascubillo, filed before the Regional Trial Court at Naval, Leyte, Civil Case No. B-0398 against Carlos for revival and enforcement of the judgment in Civil Case No. B-0168. In turn, Carlos filed Criminal Cases Nos. N-989, N-990, N-991, N-992 and N-993 for qualified theft against Naval and her helpers. These criminal cases, like Civil Case No. B-0398, were raffled to the sala of Judge Villamor.

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Due to the pendency of Civil Case No. B-0398, Judge Villamor had the criminal cases archived, noting in his Order[5] of January 4, 1984 that both sets of cases have for their subject the same parcel of land.

Eventually, Judge Villamor rendered judgment in Civil Case No. B-0398, declaring Naval to be the lawful owner/possessor of the land being disputed, and ordering Carlos to vacate the same.

Forthwith, Carlos moved to reactivate the archived aforecited criminal cases. Acting on the motion of the accused, Judge Villamor dismissed the cases. As he observed in his dismissal order dated December 5, 1986, Naval and her helpers cannot be held liable for qualified theft for gathering coconuts on a piece of land of which Naval is the owner.[6]

Meanwhile, Carlos appealed the decision in Civil Case No. B-0398. During the pendency of the appeal, Judge Villamor issued an order granting execution which Carlos, in due time, challenged through a petition for *certiorari* before this Court. The case was certified to the Court of Appeals and docketed as CA-G.R. SP No. 12011. In its Decision dated October 7, 1987, amending its earlier decision of July 24, 1987, the Court of Appeals affirmed with modification the order of immediate execution issued by Judge Villamor. Later, this Court, in G.R. No. 81826, resolved to deny the petition for review filed by Carlos for failure to show that the Appellate Court committed reversible error in sustaining the trial court's order granting execution pending appeal.[7]

On July 28, 1987, Carlos filed with this Court an administrative case against Judge Villamor, docketed as A.M. RTJ 87-105 charging the latter with having issued an illegal order and unjust decision principally in the aforementioned criminal cases and in Civil Case No. B-0398. In its *En Banc* Resolution dated

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[5] Annex "1", *Rollo* of RTJ-90-483, p. 59.

[6] Annex "3", *Rollo* of RTJ-90-483, pp. 62-63.

[7] Annex "5", *Id.* at 65.

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November 21, 1988, as reiterated in another resolution of January 26, 1989, this Court dismissed the said administrative case for being premature but "without prejudice to refiling should the Supreme Court decision later in G.R. 81826 warrants its refiling."[8]

Dissatisfied with the outcome of his administrative case, Carlos, through Atty. Antonio Guerrero, filed with the Regional Trial Court of Cebu a civil action for damages against Judge Villamor. In his complaint, docketed as CEB-6478, and raffled to Branch 21 presided by then Judge Juanito Bernad, Carlos alleged that Judge Villamor knowingly rendered an unjust judgment when he dismissed the five criminal cases against Naval and her co-accused.

The summons in Civil Case No. CEB-6478 was served on Judge Villamor on December 10, 1987. The following day, instead of answering the complaint, Judge Villamor issued in Criminal Cases Nos. N-0989 to 0993 an order declaring Carlos and his lawyer, Antonio Guerrero guilty of direct contempt for "degrading the respect and dignity of the court through the use of derogatory and contemptuous language before the court."[9] In full, the contempt order reads:

ORDER OF CONTEMPT OF COURT

It is indeed unfortunate and regrettable that George Carlos and his counsel, Atty. Antonio T. Guerrero have brushed aside the warning of this Court not to mistake its maximum tolerance as weakness. Once again, they have defiled this Court with abusive, offensive and disrespectful language in their complaint for Damages, Civil Case CEB 6478, RTC, 7th Judicial Region, Cebu City against the herein presiding judge for dismissing the aforementioned cases on December 5, 1986.

Neither George Carlos, the private prosecutor or public prosecutor questioned the said dismissal in the proper forum. It was only on December 3, 1987 that George Carlos and his counsel Atty. Antonio T. Guerrero when they filed civil case CEB 6478 peremptorily labelled the dismissal as 'unjust decision.'

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[8] Annex "4", *Id.* at 64.

[9] *Supra* note 2.

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And in their complaint they alleged:

Par. 12. 'That the dismissal of criminal cases Nos. 0989, 0990, 0991, 0992 and 0993 for qualified theft was arrived at certainly without circumspection — without any moral or legal basis — a case of knowingly rendering unjust judgment since the dismissal was tantamount to acquittal of the accused Gloria P. Naval who is now beyond the reach of criminal and civil liability — all because the defendant Hon. Adriano R. Villamor was bent backwards with his eyes and mind wilfully closed under these circumstances which demanded the scrutiny of the judicial mind and discretion from bias, x x x'

Par. 14. 'By the standard of a public official and a private person the conduct of defendant Honorable Judge — not only shocking, but appalling — in giving the plaintiff before his court the run-around is at the very least distasteful, distressing and mortifying and moral damages therefor would warrant on this kind of reprehensible behavior x x x.'

Par. 15. 'That the aforecited manifestly malicious actuations, defendant judge should also visit upon him x x x for reducing plaintiff his agonizing victim of his disdain and contempt for the former who not only torn asunder and spurned but also humiliated and spitefully scorned.'

The foregoing specially chosen language by George Carlos and Atty. Guerrero is what Dean Pound aptly termed as 'Epithetical Jurisprudence.' And to paraphrase then Chief Justice Bengson in *Lagumbay vs. Cometec* (16 SCRA 175) the employment of intemperate language serves no purpose but to detract the force of the argument. That is to put as its mildest a well-deserved reproach to such propensity. A member of the bar who has given vent to such expressions of ill will, not to say malevolence, betrays gross disrespect not only to the adverse party, but also to this Tribunal (*Surigao Mineral Reservation Board vs. Cloribel*, 31 SCRA 1).

These epithets undermines (sic) the dignity of the court. It (sic) affronts its majesty and puts (sic) it in disrepute and disrespect. Not only are they unfounded and unsubstantiated. They constitute direct contempt or contempt in *facie curiae* summarily punishable without hearing.

The Court finds George Carlos and Atty. Antonio T. Guerrero GUILTY beyond reasonable doubt of Direct Contempt of Court and

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sentences both to an imprisonment of five (5) days and to pay a fine of Five Hundred (₱500.00) Pesos."

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Carlos and Atty. Guerrero afterwards went to this Court on a petition for *certiorari* with a prayer for preliminary injunction against Judge Villamor. On November 13, 1989, this Court, in G.R. Nos. 82238-42, promulgated a decision annulling the contempt order.[10]

On March 8, 1990, Atty. Guerrero filed this instant case. Eight months later, Carlos followed with his complaint.

Complainant Atty. Guerrero, joined for the most part by complainant Carlos, alleged that the respondent judge issued the contempt order (a) as an incident of Criminal Case Nos. N-989 to N-993 which have long been terminated, (b) without informing them of the charge, (c) without a hearing, or at least a show cause order to determine whether their alleged contemptuous utterances constitute direct or indirect contempt, and (d) without following the prescription of Rule 71 of the Rules of Court on contempt. Complainant Atty. Guerrero adds that the supporting cases cited by the respondent in his order — referring to *Lagumbay vs. COMELEC*[11] and *Surigao Mineral Reservation Board vs. Cloribel*[12] are contextually not at all in point. Thus, it is contended that respondent is ignorant of the law and/or has knowingly rendered an unjust judgment. It is also contended that respondent stands liable for serious misconduct for adjudging complainants guilty of direct contempt despite their non-presence in court.[13]

In his comment, respondent submits that the various reverses encountered by the complainants before his court and the appellate courts impelled them to institute their complaint as a

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[10] Annex "E", *Rollo* of RTJ-90-483, pp. 39-47.

[11] 16 SCRA 175.

[12] 31 SCRA 1.

[13] TSN, June 6, 1991, p. 6.

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measure of harassment.[14] He, however, anchors his defense on the following terse line: What happened was an error in judgment.[15] In connection with this main posture, respondent submitted a Manifestation of Supervening Supreme Court Decision,[16] attaching therewith a copy of the decision promulgated on November 13, 1991 by this Court in the consolidated cases of *Hon. Judge Adriano Villamor vs. Hon. Judge Bernardo Ll. Salas & George Carlos* and *Hon. Judge Adriano Villamor vs. Antonio Guerrero & Hon. Peary G. Aleonar.*[17] In the decision, this Court said:

"Nowhere in this Court's decision annulling Judge Villamor's order of direct contempt (G.R. Nos. 82238-42, November 13, 1989) can there be found a declaration that the erroneous order was rendered maliciously or with conscious and deliberate intent to commit an injustice. In fact, a previous order of direct contempt issued by Judge Villamor against Carlos' former counsel was sustained by this Court (*Jaynes C. Abbarientos, et al. vs. Judge Villamor*, G.R. No. 82237, June 1, 1988).

At most, the order of direct contempt which we nullified may only be considered an error of judgment for which Judge Villamor may not be held criminally or civilly liable to the respondents.

A judge is not liable for an erroneous decision in the absence of malice or wrongful conduct in rendering it (*Barroso vs. Arche*, 67 SCRA 161)."

Investigating Justice Garcia recommends the dismissal of the complaints against respondent judge. This Court agrees with this recommendation.

With regard to the charge of malfeasance, misfeasance, neglect of duty, or misconduct, complainants have not established a *prima-facie* case against respondent judge. After a careful

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[14] Comment, *Rollo* of RTJ-90-483, p. 57.

[15] MEMORANDUM FOR RESPONDENT, *Rollo* of RTJ-90-483, pp. 135-136.

[16] Attached to *Rollo* of RTJ-90-483.

[17] 203 SCRA 540, at p. 544.

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examination of the records of this case, the Court concurs with the findings of the investigating Justice that the acts or omission allegedly constituting any of these offenses have either not been spelled out with definite specificity, or the causal connection between the given act/omission and the resulting offense/s not logically demonstrated.

The other charges, namely ignorance of the law, and issuing an unjust judgment, deserve consideration, since the direct contempt order of the respondent judge, under the attending circumstances it was issued, appears to be clearly erroneous. The supposedly contemptuous language used in a pleading was not submitted to respondent, but filed in another court presided by another judge stationed in Cebu literally miles away from where respondent holds court in Leyte. As this Court ruled in *Ang vs. Castro*:[18]

"Use of disrespectful or contemptuous language against a particular judge in pleadings presented in another court or proceeding is indirect, not direct, contempt as it is not tantamount to a misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice."

However, administrative liability for ignorance of the law and/or knowingly rendering an unjust judgment does not immediately arise from the bare fact of a judge issuing a decision/resolution/order later adjudged to be erroneous.[19] Otherwise, perhaps no judge, however competent, honest or dedicated he may be, can ever hope to retire from the judiciary with an unblemished record.[20]

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found erroneous but, most importantly, it must also be established that he was moved by bad faith, dishonesty, hatred, or some other like motive.[21] Similarly,

[18] 136 SCRA 453.

[19] *Revita vs. Rimando*, 98 SCRA 619.

[20] *Dela Cruz vs. Concepcion*, 235 SCRA 597.

[21] *Id.*

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a judge will be held administratively liable for rendering an unjust judgment — one which is contrary to law or jurisprudence or is not supported by evidence — when he acts in bad faith, malice, revenge or some other similar motive. In fine, bad faith is the ground for liability in either or both offenses.[22]

Conversely, a charge for either ignorance of the law or rendering an unjust judgment will not prosper against a judge acting in good faith. Absent the element of bad faith, an erroneous judgment cannot be the basis of a charge for any said offenses, mere error of judgment not being a ground for disciplinary proceedings.

From the record before us we agree with the finding of the investigating Justice that respondent, in issuing his erroneous contempt order, was not moved by ill-will or by an impulse to do an injustice. To be sure, complainants have not presented evidence or offered logical arguments tending to show that bad faith accompanied the issuance of the contempt order. It ought to be remembered that bad faith is not presumed and he who alleges the same has the onus of proving it. In this regard, complainants have not discharged that burden of proof sufficiently.

Should a circumstance tend to becloud the bona fides of respondent's actuation, it could only refer to the strained relationship existing between him and complainants brought about by the cumulative effect of the reverses Carlos encountered in respondent's sala, on one hand, and the filing by complainant Carlos, through Atty. Guerrero, of the damage suit against respondent, on the other.[23] The text of the contempt order, however, yields no indication that respondent, in mistakenly citing complainants for direct contempt, was prevailed upon by personal animosity or by a desire to exact revenge. On the contrary, respondent stressed in his order that he observed "maximum tolerance" in dealing with complainants, previous legal skirmishes notwithstanding.

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[22] *Heirs of the Late Nasser D. Yasin vs. Felix,* 250 SCRA 545.

[23] A.M. RTJ 87-105, COMMENT, *Rollo* of RTJ-90-483, p. 54.

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The fact that respondent did not accord complainants a hearing nor informed them beforehand of the charges relative to the contempt incident cannot, without more, be indicative of bad faith or malice. For, respondent labored under the impression, mistaken as it turned out to be, that complainants committed an act constituting direct contempt summarily punishable.[24] Assuming, as respondent did assume, that complainants did indeed commit an act punishable by direct contempt, then a formal hearing would hardly be necessary.

Needless to underscore, the utilization by respondent of the long-terminated criminal cases as the vehicle for his contempt order formed a part of his error. Bad faith, however, cannot be inferred from this particular error, *per se.*

Incidentally, the invocation in the contempt order of the cases *Lagumbay* and *Cloribel* is not at all misplaced as complainants now urge. To be sure, respondent cited these cases not so much to support the propriety of the contempt order as to accentuate the pernicious effect of the use of intemperate language in pleadings on the orderly administration of justice.

In all, the assailed act of the respondent judge appears to be a case of error of judgment not subject to disciplinary action. The decision of this Court in the consolidated cases of *Hon. Judge Adriano Villamor vs. Hon. Judge Bernardo Ll. Salas & George Carlos* and *Hon. Judge Adriano Villamor vs. Antonio Guerrero & Hon. Peary G. Aleonar*[25] concedes as much. In the decision, this Court held:

"At most, the order of direct contempt which we nullified may only be considered as error of judgment for which Judge Villamor may not be held criminally or civilly liable to the respondents [herein complainants]."

While the quoted portion of the foregoing ruling speaks only of exemption from criminal or civil liability, there is no reason

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[24] Sec. 1, Rule 71, Rules of Court.

[25] *Supra* note 17.

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not to include from its reach administrative liability as well. After all, this Court had occasion to rule that:

"[A] judge may not be administratively charged for mere errors of judgment, in the absence of showing of any bad faith, malice or corrupt purpose."[26]

Moreover, it is settled that judges cannot be held to account criminally, civilly, or administratively for an erroneous decision rendered by them in good faith.[27]

In sum, there is no legal basis nor convincing evidence to support the proposition that the respondent judge, in issuing his controversial contempt order, acted in bad faith or with ill-will or malice as to justify holding him liable for an error in judgment.

**WHEREFORE**, herein administrative complaints against Judge Adriano Villamor are hereby *DISMISSED*.

**SO ORDERED.**

*Narvasa, C.J., Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez,* and *Purisima, JJ.*, concur.

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**THIRD DIVISION**

[Adm. Matter No. RTJ-98-1418. September 25, 1998]

**EMMANUEL D. SANTOS,** *complainant, vs.* **JUDGE JOSE L. ORLINO (Retired), Regional Trial Court, Branch 23, General Santos City,** *respondent.*

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[26] Re: Judge Silverio S. Tayao, RTC, Branch 143, Makati, 229 SCRA 723.

[27] In Re: Petition for Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, 173 SCRA 719.