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FIRST DIVISION

[A.M. No. RTJ-99-1475. December 12, 2001]
(OCA IPI No. 97-475-RTJ)

ELIEZA C. DADAP-MALINAO, *complainant, vs.* **JUDGE JOSE H. MIJARES, Regional Trial Court, San Juan, Southern Leyte, Branch 26,** *respondent.*

SYNOPSIS

In the action filed by complainant Sangguniang Bayan member Elieza against the Vice-Mayor and other SB members, a Compromise Agreement was executed by the parties and approved in an Order issued by the then presiding judge. The Court of Appeals upheld the validity of the Agreement and also the Writ of Execution issued by the trial court pursuant thereto. Later, however, respondent Judge Mijares, who in the meantime was appointed presiding judge in charge of the case, issued a Resolution dismissing the "petition" filed for the implementation of the Decision that approved the compromise agreement. Hence, this complaint.

For issuing the assailed Resolution, respondent judge was guilty of gross ignorance of the law. The admission of respondent judge admitted in his Comment that although he did not have adequate knowledge about the background of the case, he ordered the issuance of the amended writ of execution as prayed for by petitioner, which betrayed a deficiency of that degree of circumspection demanded from all those who don the judicial robe. On the motion filed to dismiss complaint against respondent, the Court ruled that it cannot thereby be divested of its supervisory power to discipline errant members of the judiciary. Respondent Judge was fined the amount of ₱5,000.00.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; JUDGES; GROSS IGNORANCE OF THE LAW; PRESENT WHEN JUDGE ISSUED A RESOLUTION THAT DISREGARDED A COURT APPROVED COMPROMISE AGREEMENT.** — Respondent should have been more assiduous and circumspect in the

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performance of his duties. His issuance of the assailed resolution dated December 2, 1996 raised the question of whether or not a judge can disregard the compromise agreement of the parties, because once approved by final orders of the court a compromise agreement has the force of *res judicata* between the parties and should not be disturbed except when they are tainted with vices of consent or forgery. It bears stressing that those who wield the judicial gavel have the duty to study our laws and their latest wrinkles — they owe it to the public to be legally knowledgeable, for ignorance of the law is the mainspring of injustice. Indeed, "the ignorant judge is as great a bane to his people and country as the corrupt jurist, and the one who has not the strength and courage of his convictions is as great an evil as the one or the other." It is imperative that judges be conversant with basic legal principles. Indeed, the Code of Judicial Conduct enjoins judges to "be faithful to the law and maintain professional competence." Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy. Respondent Judge's admission in his Comment, that "[a]lthough he did not have adequate knowledge about the background of this case, he readily and without much ado ordered the issuance of the Amended Writ of Execution sought and prayed for by the petitioner," betrays a deficiency of that degree of circumspection demanded of all those who do the judicial robe. It is, in fact, an open admission of his negligence and lack of care in attending to the incidents brought before him for adjudication. Judicial carelessness such as this runs afoul of the mandate that – CANON 3.— A judge should perform official duties honestly and with impartiality and diligence. Rule 3.02— In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interest, public opinion or fear of criticism. Inefficient judges are equally impermissible in the judiciary as the incompetent and dishonest ones. Any of them tarnishes the image of the judiciary and brings it to public contempt, dishonor or disrespect and must then be administratively dealt with and punished accordingly.

2. **ID.; ID.; ADMINISTRATIVE COMPLAINT; CANNOT BE WITHDRAWN ANYTIME.** — With regard to complainant's desire to withdraw the complaint, it should be remembered that a complaint for misconduct, malfeasance or misfeasance against a public officer or employee cannot simply be withdrawn anytime. Such withdrawal would not result to the automatic dismissal

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of the case. The need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein. In short, this Court cannot be divested of its supervisory power to discipline errant members of the Judiciary as well as those employed therein through the mere expedience of a complainant's voluntary desistance in the pursuit of the administrative case.

DECISION

YNARES-SANTIAGO, *J.*:

Complainat Elieza C. Dadap-Malinao filed a Sworn Letter-Complaint dated December 2, 1997,[1] charging respondent Judge Jose H. Mijares, Presiding Judge of Branch 26, RTC of San Juan, Southern Leyte with gross ignorance of the law, knowingly rendering an unjust judgment, open disobedience to the final and executory decision of the Court of Appeals and causing undue injury to her in the discharge of judicial functions, relative to Special Civil Action No. R-400 entitled "*Elieza C. Dadap-Malinao v. Sofio Dagcutan, et al.,*" an action for *Mandamus* with Damages and Prayer for Preliminary Injunction and Temporary Restraining Order.

Complainant, a duly elected member of the Sangguninang Bayan of Hinunangan, Southern Leyte, filed a petition against Hinunangan Vice-Mayor Sofio Dagcutan, Sangguniang Bayan members Samson Malaki, Alberto Teves, Diosdado Capas, Agricula Itom, Tito Piga, Vidal Constantino, Servillano Labrador, Municipal Secretary Florito Aviles and Municipal Treasurer Leonardo Loquinto, to restrain them from preventing her from discharging her functions as a SB member and from collecting the emoluments appurtenant to the office.

Complainant alleged that on May 31, 1993, she and respondents therein entered into a Compromise Agreement[2] which was

[1] *Rollo*, pp. 1-3.

[2] *Ibid.*, pp. 64-66.

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approved by the then presiding Judge Walerico B. Butalid in an Order issued on even date.[3]

On June 29, 1993, complainant filed a Motion for Execution[4] of the judgment based on the compromise agreement for failure of respondents therein to comply with the terms of the same. The motion was granted and the corresponding writ was issued.[5] Respondents therein moved to set aside the writ,[6] but the trial court denied the motion in an Order dated July 23, 1993.[7] Respondents therein filed a Motion for Reconsideration[8] which was granted by the trial court in an Order dated February 21, 1994.[9] A Petition for *Certiorari* and *Mandamus* was filed by the complainant with the Court of Appeals, docketed as CA-G.R. SP No. 34324.

In a Decision dated February 10, 1995,[10] the appellate court upheld the validity of the compromise agreement as well as the propriety of the issuance of the writ of execution. Complainant, through counsel, filed a Motion for The Issuance of an Amended Writ of Execution[11] which was granted by the trial court in an Order dated July 28, 1995.[12]

On August 8, 1995, an Amended Writ of Execution was issued by the OIC-Clerk of Court.[13]

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[3] *Id.*, p. 67.

[4] *Id.*, pp. 68-70.

[5] *Id.*, pp. 71-72.

[6] *Id.*, 73-75.

[7] *Id.*, pp. 76-77.

[8] *Id.*, pp. 83-86.

[9] *Id.*, pp. 126-129.

[10] *Id.*, pp. 5-11.

[11] *Id.*, pp. 12-13.

[12] *Id.*, p. 14.

[13] *Id.*, pp. 15-19.

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On August 31, 1995, acting Sheriff Nicandro Nombrado returned the writ unserved in view of the refusal of incumbent Vice-Mayor Leandro Loquinto to receive the writ as he was neither impleaded as one of the respondents in the case nor was he a signatory to the compromise agreement.[14]

Complainant filed on February 19, 1996 an Omnibus Motion for Substitution and Issuance of an *Alias* Amended Writ of Execution[15] praying for the substitution of the named respondents in the petition with that of the newly elected members of the Sangguniang Bayan and for the issuance of an *Alias* Writ of Execution against all the substitutes as well as the remaining original respondents.

In the Order dated June 26, 1996,[16] respondent Judge Jose H. Mijares, who in the meantime was appointed Presiding Judge of Branch 26, denied the Omnibus Motion for lack of merit and directed the complainant to implead the local government unit of Hinunangan, Southern Leyte and the present membership of the Sangguniang Bayan of said municipality, including the incumbent Vice-Mayor, as party-respondents in the case. On October 2, 1996, respondent Judge, through his OIC Clerk of Court, issued a notice setting the case for continuation of trial on October 22, 1996.[17] However, on December 2, 1996, respondent court issued a resolution dismissing the petition.[18]

In his Comment dated March 13, 1998,[19] respondent judge denied the allegations in the complaint and argued that the charges of gross ignorance of the law and knowingly rendering an unjust judgment are without basis. He admitted that the word "petition" instead of the word "motion" was typed in the assailed December

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[14] *Id.*, p. 20.

[15] *Id.*, pp. 21-22.

[16] *Id.*, pp. 24-26.

[17] *Id.*, p. 27.

[18] *Id.*, pp. 28-32.

[19] *Id.*, pp. 40-60.

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2, 1996 resolution. However, he asserts that this is an honest clerical error and was unintentionally committed. He clarifies that what he really intended to dismiss in the December 2, 1996 resolution was the omnibus motion for substitution and not the main petition for *mandamus*, which has been decided by the previous presiding Judge Walerico B. Butalid when he approved the compromise agreement executed by the parties on May 31, 1993.

Respondent Judge branded as bereft of any factual and material basis the charge that he openly disobeyed the final and executory decision of the Court of Appeals upholding the validity of the compromise agreement as well as the propriety of the issuance of the writ of execution. He averred that when complainant filed a motion for the issuance of an amended writ of execution, he immediately granted the same and directed the Branch Clerk of Court to issue the corresponding amended writ of execution.

With regard to the charge of causing undue injury to the complainant in the discharge of his judicial functions, respondent Judge alleged that he had no intention to delay the satisfaction of the judgment based on the compromise agreement. In fact, he even granted complainant's request to set the hearing of the case for the last time on October 22, 1996 to provide the court ample opportunity to persuade the respondents to settle their obligations as contained in the compromise agreement.

The complaint was referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. Subsequently, the OCA submitted an evaluation report dated December 8, 1998[20] recommending that, with the exception of the charge relative to gross ignorance of the law, the complaint against respondent Judge be dismissed; and that respondent Judge be fined Five Thousand Pesos (₱5,000.00) with a stern warning that a repetition of the same or similar acts in the future will be dealt with more severely. The OCA based its recommendation on the following findings:

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[20] *Id.*, pp. 241-246.

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To better understand and appreciate the rationale of respondent's resolution in the light of the charges hurled against him, *i.e.*, gross ignorance of the law and knowingly rendering an unjust judgment, it is necessary to quote from his resolution, thus:

"x x x x x x x x x.

Culled under this factual antecedents and environmental milieu, as reflected in the pleadings filed by both the Petitioner and the Respondents heretofore mentioned, this Court FINDS and SO HOLDS that Petitioner's Petition was not duly proven and that Petitioner has not established her claim against respondents as embodied in the Petition. Concomitantly, this Court finds justification for the grounds/reasons relied upon by respondents in their Answer and allied subsequent pleadings hereof.

During the early stage of these proceedings, the respondents tried to comply with the Compromise Agreement by facilitating the release in favor of the petitioner of her monetary claims, however, petitioner herself failed to comply with all the requirements necessary for the payment of all the financial benefits pursuant to existing COA rules and provided further that the payment thereof will be approved by the Provincial Treasurer and the Provincial Auditor of Southern Leyte, in consonance with applicable rules and regulations thereto. Furthermore, petitioner has resorted to forum shopping in contravention to Supreme Court's Circular just to enforce her financial claims against those respondents. In this Court alone, petitioner aside from the instant case, she also filed another special civil action against the same respondents. She also filed another case against the same respondents with the Office of the Ombudsman in Cebu City, this time, a criminal charge. She also filed an administrative case against the same respondents with the Sangguniang Panlalawigan of Southern Leyte for the same causes of action.

WHEREFORE, PREMISES CONSIDERED, the Petition of the Petitioner is hereby ordered DISMISSED for lack of merit, with costs against Petitioner.

SO ORDERED."

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Respondent Judge's claim that what he dismissed in the assailed resolution was the omnibus motion filed by complainant cannot be given credence. It is apparent on the face of the above quoted resolution that what was actually dismissed by respondent court is the main petition for *mandamus* and not the omnibus motion for substitution.

In addition, respondent Judge's contention that there was a typographical error committed is too shallow to controvert the content of the December 2, 1996 resolution. The omnibus motion which he claims to be the subject of the aforesaid resolution had in fact already been resolved when he issued the Order dated June 26, 1996. Moreover, the assailed resolution made reference to this omnibus motion as one of the incidents already resolved by him to wit:

"x x x x x x x x x.

Petitioner filed an OMNIBUS MOTION (SUBSTITUTION AND ISSUANCE OF *ALIAS* AMENDED WRIT OF EXECUTION) dated 19 February 1996. An OPPOSITION/OBJECTION/ COMMENTS TO THE OMNIBUS MOTION FOR SUBSTITUTION AND ISSUANCE OF *ALIAS* AMENDED WRIT OF EXECUTION was filed by respondents through counsel dated 12 May 1996. This Court in an Order dated 23 May 1996, considered as submitted the issues therein involved for Resolution after its hearing on 21 May 1996, for which the Petitioner was not duly represented by counsel. In an Order by this Court dated 26 June 1996, it was held:

WHEREFORE, premises considered, the Local Government unit of Hinunangan, Southern Leyte, including the Incumbent Vice Mayor who is the Presiding Officer at such Sanggunian, be impleaded as party-respondents in the instant case. The incumbent Vice Mayor and S.B. members are not compulsory heirs of the previous or outgoing officials who could necessarily be substituted as parties.

Section 18, Rule 3 of the Rules of Court does not apply in this case. The local government officials should be impleaded as respondents in order that they be given an opportunity to present their side of the issue.

The Petition is hereby DENIED for lack of merit.

SO ORDERED."

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The Dismissal of the petition for *mandamus*, after a judgment thereon had been rendered based on the compromise agreement executed by the parties, clearly contravenes a well-settled rule that a decision based on a compromise agreement is final and immediately executory. Verily, once a judgment has become final and executory, it is the ministerial duty of the courts to order its execution.[21]

From the foregoing, the dismissal by respondent Judge of the petition for *mandamus* clearly shows gross ignorance of the law. Although respondent's actuation does not appear to be tainted with malice, lack of malicious intent, nevertheless, he cannot be completely free from administrative liability. The present controversy could have been avoided had he kept faith with the injunction that a member of the bench must continuously keep himself abreast of legal and jurisprudential developments because the learning process in law never ceases.[22]

The charge of knowingly rendering an unjust judgment has no basis as the complaint does not impute any motive on the part of respondent Judge in issuing the assailed resolution. To be liable for rendering an unjust judgment it must be established that respondent in issuing the said resolution was motivated by hatred, revenge, greed or some other similar motive. Bad faith is therefore the ground for liability.[23]

Anent the charge of open disobedience to the final and executory decision of the Court of Appeals, the records show that on July 17, 1995, complainant, through counsel, filed a Motion for Issuance of Amended Writ of Execution. On July 28, 1995, respondent Judge issued an Order granting the said motion and at the same time directed the issuance of an Amended Writ of Execution in compliance with the mandate of the aforesaid decision. On August 8, 1995, then OIC-Clerk of Court Trinidad Capote issued an Amended Writ of Execution. From the foregoing, it is evident that respondent Judge in fact complied with the directives of the Court of Appeals as contained in its decision dated February 10, 1995. Thus, the charge leveled against respondent with respect to this point should be dismissed.

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[21] *Rubi v. MTCC, Br. 4, Cagayan de Oro City*, 252 SCRA 172 [1996].

[22] A.M. No. 92-12-916-RTC, 8 July 1994.

[23] *Dela Cruz v. Concepcion*, Adm. Matter No. RTJ-93-1062, 5 August 1994.

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Anent the charge of causing undue injury in the discharge of judicial functions, there is no evidence on record, except complainant's self-serving allegations to substantiate the same.[24]

After the case was referred to the OCA for evaluation and report, respondent judge submitted to this Court a copy of his Order dated November 17, 1998[25] issued in Special Civil Action No. R-400, to show that the case was not dismissed as claimed by complainant. Rather, the same had long been decided and what was being heard was the implementation of the *alias* amended writ of execution.

On March 2, 1999, complainant filed a Motion to Dismiss averring, *inter alia,* that she was "no longer interested to pursue this case against Judge Jose H. Mijares due to his untiring efforts in implementing and enforcing the *Alias* Amended Writ of Execution against the local government officials of [the] LGU of Hinunangan, Southern Leyte."[26]

Taking into consideration the foregoing documents submitted by complainant and respondent, the OCA subsequently submitted an evaluation report dated April 5, 1999,[27] finding respondent judge not only liable for gross ignorance of the law but also gross negligence and increased the fine to ₱10,000.00. In increasing the fine, the OCA pointed out that the assailed resolution is a disposition on the merits. If, as explained by respondent, the said resolution was issued merely to dismiss the Omnibus Motion for Substitution, he could have issued a clarificatory order to put the matters into its proper perspective. This he failed to do, therefore, it is still on record that respondent Judge ordered the dismissal of Special Case No. R-400 on December 2, 1996.

Respondent should have been more assiduous and circumspect in the performance of his duties. His issuance of the assailed

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[24] *Rollo*, pp. 241-246.

[25] *Ibid.*, p. 248.

[26] *Id.*, p. 254.

[27] *Id.*, pp. 257-260.

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resolution dated December 2, 1996 raised the question of whether or not a judge can disregard the compromise agreement of the parties, because once approved by final orders of the court a compromise agreement has the force of *res judicata* between the parties and should not be disturbed except when they are tainted with vices of consent or forgery.[28]

Subsequently, complainant submitted a letter stating that she was filing a supplement to the motion to dismiss on the ground that she is no longer interested to pursue the case since she already had been paid her backwages as duly elected Sangguniang Bayan member of the Municipality of Hinunangan, Southern Leyte from 1988 to 1995.[29]

Taking into consideration the foregoing incident, the OCA thereafter submitted a revised evaluation report substantially reiterating its findings and rulings but recommended the imposition of a fine of ₱5,000.00.[30]

We adopt the recommendation of the OCA. With regard to complainant's desire to withdraw the complaint, it should be remembered that a complaint for misconduct, malfeasance or misfeasance against a public officer or employee cannot simply be withdrawn anytime. Such withdrawal would not result to the automatic dismissal of the case. The need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein.[31]

In short, this Court cannot be divested of its supervisory power to discipline errant members of the Judiciary as well as those employed therein[32] through the mere expedience of a

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[28] *Santos v. Dames II,* 280 SCRA 13 [1997].

[29] *Rollo*, p. 270.

[30] *Ibid.*, pp. 273-275.

[31] *Mosquera v. Legaspi*, A.M. RTJ-99-1511, 10 July 2000, 335 SCRA 326, 330, citing *Florendo v. Enrile*, 239 SCRA 22 [1999].

[32] *OCA v. Garong*, A.M. No. P-99-1311, 15 August 2001, p. 8, citing *Angulan v. Taguba*, 93 SCRA 179 [1979]; *People v. Valenzuela*, 135 SCRA

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complainant's voluntary desistance in the pursuit of the administrative case.

Anent the charge of gross ignorance of the law, it bears stressing that those who wield the judicial gavel have the duty to study our laws and their latest wrinkles — they owe it to the public to be legally knowledgeable, for ignorance of the law is the mainspring of injustice.[33] Indeed, "the ignorant judge is as great a bane to his people and country as the corrupt jurist, and the one who has not the strength and courage of his convictions is as great an evil as the one or the other."[34]

It is imperative that judges be conversant with basic legal principles.[35] Indeed, the Code of Judicial Conduct enjoins judges to "be faithful to the law and maintain professional competence."[36] Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.[37] Verily —

> The case of respondent Judge should be no different. For judges are called to exhibit more than just a cursory acquaintance with statutes and procedural laws. They are not "common men and women, whose errors men and women forgive and time forgets. Judges sit as the embodiment of the people's sense of justice, their last recourse where all other institutions have failed." Most importantly, respondent Judge is required by Canon 3, Rule 3.01 of the Code of Judicial

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712 [1985]; *Leynes v. Veloso*, 82 SCRA 325 [1978]; *Arbon v. Borja*, 143 SCRA 634 [1986]; *Ramirez v. Macandong*, 144 SCRA 462 [1986]; *Advincula v. Malicudio*, 100 SCRA 39 [1980]; *Valentin v. Gonzales*, 115 SCRA 824 [1982].

[33] *Bio v. Valera*, 257 SCRA 462 [1996].

[34] Pineda E. L., *Legal and Judicial Ethics*, 1999 ed., p. 398, citing "*Virtues of the Judge*" by Chief Justice Andres R. Narvasa, The Lawyer's Review, November 1998 Ed., p. 78.

[35] *COMELEC v. Datu Imam*, 304 SCRA 106, citing *Guieb v. Fontanilla*, 247 SCRA 348 [1995].

[36] Canon 3, Rule 3.01.

[37] *Bacar v. De Guzman, Jr.*, 271 SCRA 328 [1997].

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Conduct to be faithful to the law and maintain professional competence. As we held in one case, there will be faith in the administration of justice only if there be a belief on the part of the litigant that the occupants of the bench cannot be justly accused of deficiency in their grasp of legal principles.[38]

Respondent Judge's admission in his Comment, that "[a]lthough he did not have adequate knowledge about the background of this case, he readily and without much ado ordered the issuance of the Amended Writ of Execution sought and prayed for by the petitioner,"[39] betrays a deficiency of that degree of circumspection demanded of all those who don the judicial robe. It is, in fact, an open admission of his negligence and lack of care in attending to the incidents brought before him for adjudication. Judicial carelessness such as this runs afoul of the mandate that —

CANON 3. — A judge should perform official duties honestly, and with impartiality and diligence.

Rule 3.02. — In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

Restating what has been said earlier, we have ruled that inefficient judges are equally impermissible in the judiciary as the incompetent and dishonest ones. Any of them tarnishes the image of the judiciary and brings it to public contempt, dishonor or disrespect and must then be administratively dealt with and punished accordingly.[40]

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[38] *Dela Cruz v. Hon. Herminia M. Pascua*, A.M. No. RTJ-99-1471, 26 June 2001, p. 9, citing *Cui v. Madayag*, 245 SCRA 1 [1995], citing *OCA v. Bartolome*; 203 SCRA 328, 337 [1991] and *Libarios v. Dabalos*, 199 SCRA 48 [1991]; see also *Conducto v. Monzon*, 291 SCRA 619 [1998], citing *Estoya v. Abraham-Singson*, 237 SCRA 1 [1994], citing *Aducayen v. Flores*, 51 SCRA 78 [1973]; *Ajeno v. Insierto*, 71 SCRA 166 [1976]; *Ubongen v. Mayo*, 99 SCRA [1980]; *Lim v. Domagas*, 227 SCRA 258 [1993]; *Cuaresma v. Aguilar*, 226 SCRA 73 [1993].

[39] Comment, p. 8.

[40] *Dela Cruz v. Hon. Herminia M. Pascua, supra*, citing *Yu-Asensi v. Villanueva*, 322 SCRA 255 [2000], citing *Re: Report on the Judicial Audit, RTC, Branches 4 and 23, Manila*, 291 SCRA 10 [1998].

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The reduction of the fine from ₱10,000.00 to ₱5,000.00 is proper considering that respondent Judge appears to have exerted efforts to have the claim of complainant Dadap-Malinao settled. Although late in coming, the claim, nevertheless, was eventually satisfied.

WHEREFORE, in view of all the foregoing, respondent Judge is hereby *FINED* Five Thousand Pesos (₱5,000.00) and *STERNLY WARNED* that a repetition of the same or similar infractions complained of will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Kapunan, and *Pardo, JJ.,* concur.

Puno, J., on official leave.

EN BANC

[G.R. No. 134607. December 12, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **CELSO REYNES *alias* "Boy Baga,"** *accused-appellant.*

SYNOPSIS

For shooting one Claro Bernardino to death, appellant Celso was convicted of murder aggravated by treachery. He was sentenced to suffer the penalty of death and hence, this appeal.

While the Court sustained the conviction of appellant for the crime of murder, it ruled that the penalty imposed should be reduced to *reclusion perpetua*. Murder exists when one of the qualifying circumstances provided by law is present. When