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THIRD DIVISION

[A.M. No. RTJ-99-1443. March 14, 2000]

EVAN B. CALLEJA, *complainant, vs.* **JUDGE RAFAEL P. SANTELICES, Regional Trial Court, Branch 2, Legaspi City,** *respondent.*

SYNOPSIS

Complainant Evan B. Calleja charged Judge Rafael B. Santelices of the Regional Trial Court of Legaspi City, Branch 2, with manifest partiality and gross ignorance of the law relative to respondent's actuations in Civil Case No. 9441 for damages, with prayer for temporary restraining order and/or preliminary mandatory injunction. Complainant averred that Respondent Judge issued a writ of preliminary mandatory injunction but refused to comply with Section 9 of R.A. No. 7832 which directs the court issuing the injunction to submit a report to the Supreme Court within (10) days from its issuance and during the hearing on November 12, 1997, the counsel for the defendant was about to invoke a circular of the Supreme Court when respondent in gross and grave disrespect to the Supreme Court, cut him short and said "Never mind, let the Supreme Court have that circular." The Court referred the case to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. In due time, the OCA came out with its findings. The OCA recommended that respondent Judge be fined in the amount of ₱10,000.00 for gross inefficiency and disrespect to the Supreme Court and for violating Canon 2, Rule 2.01 of the Code of Judicial Ethics.

The Supreme Court approved the recommendation of the Office of the Court Administrator. Respondent Judge admitted his failure to submit a report on his issuance of a writ of preliminary mandatory injunction required by Section 9 of Republic Act No. 7832. The mandate of the law is not ambiguous, and no justifiable reason had been advanced by respondent to excuse his failure to comply therewith. All that respondent could say for his inaction is that his nonfeasance

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had not been deliberate. The Court considers this explanation to be unsatisfactory. Relative to the utterance made by respondent in open court, he had not only has unwarrantably undermined the authority of the Court but also had seriously demeaned the entire judiciary and his own profession. The Court, however, deemed it appropriate to reduce the recommended fine from ₱10,000.00 to ₱5,000.00 given the possibility, if not likelihood, that respondent has had no real intention to do harm.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; JUDGES; NO JUSTIFIABLE REASON HAS BEEN ADVANCED BY RESPONDENT JUDGE TO EXCUSE HIS FAILURE TO COMPLY WITH THE REQUIREMENTS OF SECTION 9 OF REPUBLIC ACT NO. 7832; OBSERVANCE OF THE LAW WHICH HE IS BOUND TO KNOW AND SWORN TO UPHOLD IS REQUIRED OF EVERY JUDGE.** — Although the Court has said that an administrative complaint is not an appropriate remedy for an act of a judge where a judicial remedy exists and is available, respondent Judge, nonetheless, cannot totally escape from administrative sanction. He has admitted his failure to submit a report on his issuance of a writ of preliminary mandatory injunction required by Section 9 of Republic Act No.7832. Observance of the law, which he is bound to know and sworn to uphold, is required of every judge. The mandate of Republic Act No. 7832 is certainly not ambiguous, and no justifiable reason has been advanced by respondent to excuse his failure to comply therewith. All that respondent could say for his inaction is that his nonfeasance has not been deliberate. The Court considers this explanation to be unsatisfactory.

2. **ID.; ID.; ID.; ID.; RESPONDENT JUDGE'S UTTERANCES IN OPEN COURT HAS NOT ONLY UNWARRANTABLY UNDERMINED THE AUTHORITY OF THE SUPREME COURT BUT ALSO HAS SERIOUSLY DEMEANED THE ENTIRE JUDICIARY AND HIS OWN PROFESSION.** — Relative to the utterance made by respondent in open court (when his attention was called to a circular issued by this Court),

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viz: "Never mind, let the Supreme Court have that circular," he not only has unwarrantably undermined the authority of this Court but also has seriously demeaned the entire judiciary and his own profession. Being himself a ranking official charged with the delicate task of dispensing justice, it should have behooved him to be constantly cautious in his words and deeds to help earn the proper respect of the public. The Supreme Court certainly expects no less from him.

RESOLUTION

VITUG, *J.*:

In a sworn letter-complaint, dated 03 December 1997, complainant Evan B. Calleja charged Judge Rafael B. Santelices of the Regional Trial Court of Legaspi City, Branch 2, with manifest partiality and gross ignorance of the law relative to his actuations in Civil Case No. 9441 ("*Mayon International Hotel, Inc. vs. Albay Electric Cooperative, Inc., Edgardo San Pablo and Evan B. Calleja*") for damages, with prayer for temporary restraining order and/or preliminary mandatory injunction; he averred that —

"a. During the hearing on October 17, 1997 the plaintiff made certain admissions which conclusively prove that it (plaintiff) and its personnel are guilty of electricity pilferage and were caught in the act of knowingly using or receiving the benefit of pilfered electricity;

"b. During the hearing on the preliminary mandatory injunction, defendant was able to submit a computation of the differential billing in the amount of ₱1,454,381.50 as basis for fixing the bond but respondent ignored it and fixed the bond at ₱200,000.00 only;

"c. Respondent issued a writ of preliminary mandatory injunction but refused to comply with Section 9 of R.A. No. 7832 which directs the court issuing the injunction to submit a report to the Supreme Court within (10) days from its issuance;

"d. During the hearing on November 12, 1997, the counsel for the

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defendant was about to invoke a circular of the Supreme Court when respondent in gross and grave disrespect to the Supreme Court, cut him short and said 'Never mind, let the Supreme Court have that circular'; and

"e. During the hearing on the same date, counsel for the defendants requested for a postponement whereupon respondent ordered the defendants to reimburse the transportation expenses and appearance fee of counsel for plaintiff."

Another administrative complaint, dated 25 February 1998, was filed by complainant, this time alleging that —

"a. Respondent is partial to the plaintiff as a favor to the counsel of the plaintiff, Atty. Manuel M. Lazaro, who as Chief Presidential Legal Counsel and Chairman of the Presidential Judicial Re-Organization during President Marcos' regime, had caused, processed and recommended the appointment of respondent in the judiciary;

"b. Complaint was not sent a Notice of Raffle as required by the Supreme Court Circular No. 20-95 dated September 12, 1995 and when he was told by somebody that a case against him and his co-defendants has been filed and will be raffled at 2:00 p.m., he went to the sala of respondent at around 1:45 p.m. only to be told that the raffle had been done already;

"c. In an order dated October 17, 1997 respondent set the case for pre-trial on November 12, 1997 inspite of the fact that the last pleading has not yet been filed or the period to file it has not yet expired and no motion was ever filed by the plaintiff to set the case for pre-trial as required by Section 1 of Rule 18 of the 1997 Rules of Civil Procedure;

"d. Respondent repeated the same mistake by issuing another Notice of Pre-Trial dated December 18, 1997 stating in part 'The last pleading in this case having been filed and issues being joined, the pre-trial conference is hereby set on February 11, 1998 at 8:30 o'clock in the morning;'

"e. Respondent distorted the records of Civil Case No. 9441 when he issued two (2) orders: first, the order dated February 6, 1998 stating that the motion to inhibit filed by Counsel for

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> the defendants had already been denied in open court during the hearing on December 10, 1997 and second, the order dated February 11, 1998 which resolved for the second time the said motion to inhibit and reiterated that said motion was denied last December 10, when in fact respondent did not make such a ruling during the hearing last December 10, 1997."

In his comment, dated 16 February 1998, respondent Judge denied the allegations of complainant and countered that if the plaintiff had indeed made admissions of pilferage of electricity, the defendants could have easily moved for the dismissal of the complaint. Respondent Judge asserted that the pilferage was merely "discovered" and that the plaintiff was not "caught in the act" as so claimed by complainant. With respect to the fixing of the bond, respondent argued that the differential billings were only mentioned by the defendants but the witness presented by the latter did not specify the amount involved. The bond of ₱200,000.00 he fixed was, in any event, still subject to change once the amount of the differential billings would have been determined. Respondent Judge admitted his failure to report to the Court his issuance of an injunction but maintained that his act was not deliberate. Respondent Judge conceded having uttered the words ascribed to him but explained that he did not mean to offend the Court by his utterance; nevertheless, he expressed his apologies. He did direct, he said, the reimbursement of transportation expenses of plaintiff's Makati-based counsel since the latter was not duly notified of defendants' intention to ask for postponement.

Complainant, in his reply, asseverated that respondent Judge had shown partiality to plaintiff's counsel, Atty. Manuel Lazaro, who was instrumental in the appointment of said respondent to the judiciary. He insisted that the plaintiff was caught in *flagrante delicto*, that respondent erred in fixing the amount of bond, and that there was nothing that could justify his order directing the reimbursement of transportation expenses to counsel for the plaintiff.

Following a further exchange of pleadings, the case was referred by the Court to the Office of the Court Administrator ("OCA")

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for evaluation, report and recommendation. In due time, OCA came out with its findings. The Court, on 14 April 1999, required the parties to manifest whether or not they were submitting the case for resolution on the basis of the pleadings on record to which the parties responded in the affirmative.

The Court quotes below the pertinent portions of the evaluation, report and recommendation of OCA; thus:

"The issues of whether or not the plaintiff made admissions as to its liability and whether or not, the plaintiff was caught in *flagrante delicto* are still subjudice. The trial of the merits of Civil Case No. 9441 before the Regional Trial Court is still going on and besides the question posed by these issues are judicial in character as these go to the assessment by respondent of the evidence of the parties. In such a case, the remedy of complainant are those found in the Rules of Court and not an administrative case.

"As to the alleged error of respondent in fixing the bond at ₱200,000.00 this has already been rendered moot and academic by the dismissal by the Supreme Court of the petition filed by the defendants and docketed as G.R. No. 131290 questioning the said order of respondent.

"Respondent admitted that when he issued the writ of preliminary mandatory injunction, he failed to report the same within ten (10) days from its issuance as required by R.A. 7832, Section 9. Respondent's omission constitutes gross inefficiency. The complaint in Civil Case No. 9441 (Annex 'A' of the complaint) clearly indicates the applicable law, that is Republic Act No. 7832. This law consists of merely seventeen (17) sections and it would not have required too much time and effort on the part of the respondent to peruse its provisions and acquaint himself with its contents. It even appears that respondent came to know of the requirement of Section 9 of R.A. No. 7832 only from this administrative complaint. Canon 3, Rule 3.01 of the Code of Judicial Conduct provides that a judge should maintain professional competence. In this regard, the Supreme Court has consistently ruled that judges should be conversant with the law (*Lopes vs. Fernandez,* 99 SCRA 603, 611), he should be fully acquainted with the statutes and procedural rules (*Librarios vs. Dabalos*, 199 SCRA 48, 56).

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"Likewise, respondent admitted that he uttered this statement 'Never mind, let the Supreme Court have that circular.' This is in violation of Canon 2, Rule 2.01 Code of Judicial Conduct which provides that a judge should so behave at all times as to promote public confidence in the integrity of the judiciary. A remark such as that uttered by the respondent, although he might not have meant any disrespect, tends to create in the minds of those who heard it the impression that the authority of the Supreme Court can be ignored by the lower courts. A judge should be prudent and more circumspect in his utterances, remembering that his conduct in and outside the courtroom is under constant observation. (*Legaspi vs. Garrete*, 242 SCRA 679, 686)

"The question of validity and propriety of the order of respondent judge directing the defendants to reimburse the transportation expense and appearance fee of counsel for plaintiff, has been raised in G.R. No. 132540, and has yet to be resolved by the Supreme Court. Hence, the matter is still subjudice.

"As to the charge that respondent is partial in favor of Mayon International Hotel, this has been rendered moot and academic by the dismissal of G.R. No. 133368.

"We also find baseless the charge that respondent failed to comply with the provision of Rule 58, Section 4 (c) of the 1997 Rules of Civil Procedure which provides that when an application for a writ of preliminary injunction or temporary restraining order is included in a complaint, the case shall be raffled only after notice to and in the presence of the adverse party. Complainant raised this issue in his pleading entitled 'Administrative Complaints' which we considered as a supplement to his original complaint. On page two (2) thereof, he states that 'the herein complainant was not sent the required Notice of Raffle...' Likewise, in pages 9 and 13 of the petition in G.R. No. 133368, it was alleged therein that Notice of Raffle was not sent to San Pablo and Calleja. It should be remembered that there are three (3) defendants in Civil Case No. 9441, Albay Electric Cooperative, Inc., Edgardo San Pablo and Evan Calleja, the latter two being impleaded as officers of the corporation. Interestingly, complainant did not categorically allege, either in this complaint or in the petition in G.R. No. 133368, that no notice of raffle was sent to Albay Electric Cooperative, Inc. In the absence of such an allegation, respondent can not be held liable for violating Rule 58, Section 4(c), for if

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such notice was sent to the corporation, then there would have been substantial compliance with the rule.

"The charge that respondent violated Section 1, Rule 18 of the 1997 Rules of Civil Procedure when he set Civil Case No. 9441 for pre-trial must be dismissed for being subjudice. This is one of the issues complainant raised in G.R. No. 132540 which has yet to be resolved by the Supreme Court.

"Finally, the charge that respondent distorted the records in Civil Case No. 9441 must also be dismissed for being moot and academic. The legality and propriety of the orders dated February 6 and 11, 1998 which allegedly distorted the records of Civil Case No. 9441 was raised by complainant in G.R. No. 133368 and has already been rejected by the Supreme Court."

The OCA recommended that the case be re-docketed as an administrative matter, and that respondent Judge be (a) FINED in the amount of ₱10,000.00 for gross inefficiency and disrespect to the Supreme Court, (b) REPRIMANDED for violating Canon 2, Rule 2.01 of the Code of Judicial Ethics, and (c) REMINDED that a repetition of the same offenses will be dealt with most severely. The OCA recommended the dismissal of the rest of the charges.

The Court accepts and adopts the foregoing evaluation, report and recommendation of the OCA.

Although the Court has said that an administrative complaint is not an appropriate remedy for an act of a judge where a judicial remedy exists and is available,[1] respondent Judge, nonetheless, cannot totally escape from administrative sanction. He has admitted his failure to submit a report on his issuance of a writ of preliminary mandatory injunction required by Section 9 of Republic Act No.7832. This law provides:

"SEC. 9. Restriction on the Issuance of Restraining Orders or

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[1] *Santos v. Orlino,* 296 SCRA 101; Civil Case No. 9441 is still under litigation and the Court is bereft of authority to delve into questions that affects the merits of a case.

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Writs of Injunction. — No writ of injunction or restraining order shall be issued by any court against any private electric utility or rural electric cooperative exercising the right and authority to disconnect electric service as provided in this Act, unless there is *prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority.

"If, notwithstanding the provisions of this section, a court issues an injunction or restraining order, such injunction or restraining order shall be effective only upon the filing of a bond with the court which shall be in the form of cash bond or cashier's check equivalent to 'differential billing,' penalties and other charges, or to the total value of the subject matter of the action; Provided, however, That such injunction or restraining order shall automatically be refused or, if granted, shall be dissolved upon filing by the public utility of a counterbond similar in form and amount as that above required: Provided, finally, *That whenever such injunction is granted the court issuing it shall, within ten (10) days from its issuance, submit a report to the Supreme Court setting forth in detail the grounds or reasons for its order.*"[2]

Observance of the law, which he is bound to know and sworn to uphold, is required of every judge.[3] The mandate of Republic Act No. 7832 is certainly not ambiguous, and no justifiable reason has been advanced by respondent to excuse his failure to comply therewith. All that respondent could say for his inaction is that his nonfeasance has not been deliberate. The Court considers this explanation to be unsatisfactory.

Relative to the utterance made by respondent in open court (when his attention was called to a circular issued by this Court), *viz:* "Never mind, let the Supreme Court have that circular," he not only has unwarrantably undermined the authority of this Court but also has seriously demeaned the entire judiciary and his own profession. Being himself a ranking official charged with the delicate task of dispensing justice, it should have

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[2] At pages 454-455.

[3] See *Hermo vs. De la Rosa*, 299 SCRA 68.

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Given the possibility, if not likelihood, that respondent has had no real intention to do harm, the Court deems it appropriate to reduce the recommended fine from ₱10,000.00 to ₱5,000.00.

WHEREFORE, for inefficiency and lack of circumspection, Judge Rafael P. Santelices is imposed a FINE in the sum of Five Thousand (₱5,000.00) Pesos. A repetition of the same or similar conduct in the future will be dealt with most severely.

SO ORDERED.

Melo (Chairman), Panganiban, Purisima, and *Gonzaga-Reyes, JJ.,* concur.

FIRST DIVISION

[G.R. No. 109271. March 14, 2000]

RICARDO CASTILLO, DEMETRIO CABISON JR., and RODOLFO AGDEPPA, *petitioners, vs.* **HONORABLE SANDIGANBAYAN (SECOND DIVISION), and PEOPLE OF THE PHILIPPINES, represented by HONORABLE CONRADO VASQUEZ, OMBUDSMAN,** *respondents.*

SYNOPSIS

On August 25, 1986, concerned employees of the Commission on Audit (COA) filed a Complaint before the Tanodbayan against petitioners Ricardo Castillo, Rodolfo Agdeppa and Demetrio Cabison, Jr., COA Auditor VIII, COA Auditor II, and COA Auditor III, respectively, all assigned at the National Housing Authority (NHA), for alleged "submittal of initial very derogatory reports which became the basis for the filing of cases with the Tanodbayan and the reversals of their initial recommendations for selected contractors." In a