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of said respondent in the Office of the Bar Confidant, Supreme Court of the Philippines, and copies to be furnished the Integrated Bar of the Philippines and circulated to all courts.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

FIRST DIVISION

[A.M. No. RTJ-95-1324. November 17, 1999]

EVARISTO MANAHON, *complainant, vs.* **JUDGE ALVIN L. TAN,** *respondent.*

SYNOPSIS

Herein complainant charged respondent Judge with illegal arrest and detention, grave abuse of discretion and abuse of authority. Complainant then filed a written motion to withdraw his complaint. He also subsequently executed an Affidavit of Desistance of his administrative complaint against respondent Judge. But despite the same, the Investigating Justice evaluated the merits of the case and only after finding nothing irregular in the events that led to the filing of the case did he recommend the dismissal of the charges against respondent Judge.

The Court had no other recourse but to dismiss the case. This is another instance where a baseless complaint robbed a Judge of precious time which he could have otherwise devoted to the cases in his court. Complainant must then be reprimanded.

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SYLLABUS

ADMINISTRATIVE LAW; ADMINISTRATIVE CHARGES; EVALUATION THEREOF MUST BE MADE DESPITE AFFIDAVIT OF DESISTANCE OF COMPLAINANT.— In his Report, Justice Umali evaluated the merits of the case, despite complainant's affidavit of desistance, for the following reason: "In administrative cases, the rule is settled that the charge should not be made to depend upon the will of the complainant. The investigation may proceed notwithstanding the desistance of the complainant more so as in this case where the deprivation of the complainant's liberty is at stake."

RESOLUTION

DAVIDE, JR., *C.J.*:

In his sworn complaint of 26 July 1994 addressed to the Chief Justice, complainant Evaristo Manahon charged Judge Alvin L. Tan of the Regional Trial Court (RTC) of Negros Oriental, Branch 44, Dumaguete City, with Illegal Arrest and Detention, Grave abuse of Discretion, and Abuse of Authority. Attached to the complaint was his affidavit subscribed before the Provincial Prosecutor of Negros Oriental.

Complainant alleged that respondent issued an order for his arrest in Criminal Case No. 1427, which was assigned to Judge Rosendo Bandal, Jr., of Branch 34 of said court as shown in an indorsement of Judge Winston Villegas dated 17 May 1994. On 19 July 1994, he was arrested. Despite the posting of a cash bond by the complainant in the afternoon of that same day, respondent refused to issue an order for his release. The latter allegedly wanted the former to sleep, rot and be killed in jail in revenge for having been administratively charged by complainant's sister.

For his part, respondent explained that the criminal case was forwarded to his Branch in exchange for Criminal Case No. 10577 pursuant to the second indorsement dated 27 June 1994. It was only after a careful study of the information and other

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supporting documents that he issued the order for the arrest of complainant. He ordered complainant's release only on 20 July 1999 because the Undertaking on Cash Bail was subscribed and sworn to only on that day, as evidenced also by complainant's residence certificate which was dated 20 July 1994.

On 21 June 1995, the Court required Executive Judge Pacifico Bulado of Branch 33 of the RTC of Dumaguete City to comment on the exchange of cases without raffle and to forward the records of the case to this Court. Judge Bulado submitted his comment, the pertinent portions of which read:

ORIGIN and FIRST ROUTE:

This criminal case aforestated was filed before the Office of the Clerk of Court of all Regional Trial Courts of this province, on March 14, 1994. As usual, in line with Administrative Circular No. 7 of the Supreme Court dated September 23, 1974, "in order to provide a uniform method of assignment of cases to different branches..." of the Courts and manner by which such distribution is to be effected..." this case together with the other cases was raffled. The raffle, as we always conduct the same every Wednesday, was conducted on March 16, 1994, and after the raffle it occurred that this case was assigned to RTC Branch 43, the Judge here is Judge Winston M. Villegas. (Attached herein are the xerox copies of the minutes, attendance and distribution of the cases assigned to different courts marked as Annex[es] "A" and "B" correspondingly.

SECOND ROUTE OF CRIMINAL CASE 11427:

That in the interim, as this case was pending before RTC Branch 43, there was another criminal case likewise pending before said Court, entitled *People of the Philippines, plaintiff, versus Enecrito Saguban y Ybasan,* accused, for ACTS OF LASCIVIOUSNESS who also had another criminal case for RAPE before RTC Branch 34. The offended party in the latter cases through the Fourth Assistant Provincial Prosecutor Joseph A. Elmaco, filed a motion for consolidation before RTC Branch 34, of the RAPE case with the ACTS OF LASCIVIOUSNESS pending with RTC Branch 43, which motion was granted by RTC Branch 34 Judge Rosendo B. Bandal, Jr., (xerox copy of the motion herein attached and marked as Annex "C" and the ORDER of the Judge, herein marked as Annex "D");

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with this ORDER, therefore, the records of the RAPE case was transferred to RTC Branch 43, the latter being a Criminal Case of lower number. And because this RAPE case was transferred to RTC Branch 43, it has to [be] exchanged or replaced with another criminal case by RTC Branch 43, and by reason of perhaps no other case of the same kind and status [sic], what was transferred by RTC Branch 43 to RTC Branch 34 was this case of *People of the Philippines, plaintiff, versus Evaristo Manahon,* Crim. Case No. 11427; that there was no raffle in this exchange finds its reason on the rule on CONSOLIDATION which provides:

. . .

THIRD ROUTE OF CRIMINAL CASE 11427:

As this criminal case was made pending before this RTC Branch 34, another incident occurred at RTC Branch 44, presided over by Judge Alvin L. Tan. Provincial Prosecutor II, Diosdado D. Hermosa, of the Province of Negros Oriental, filed a motion dated May 18, 1994, for the transfer of one criminal case entitled *People of the Philippines, plaintiff, versus Antioco Ponce, et al.,* designated as Criminal Case No. 10577, for violation of forest laws, to RTC Branch 34, since said RTC Branch, pursuant to Supreme Court's Administrative Order No. 150-93 dated August 19, 1993, was created as a Special Court assigned to handle forestry law violations. (Herein is the xerox copy of the motion of the Assistant Provincial prosecutor marked as Annex "E") and because of this motion Judge Alvin L. Tan of RTC Branch 44 granted the same and issued an ORDER dated May 20, 1994, directing the Clerk of Court to forward the records of Criminal Case No. 10577, (*Pp. vs. Antioco Ponce, et al.*) to RTC Branch 34, subject to exchange of another case of the same nature. And so, in exchange of criminal case No. 10577, *Pp. vs. Antioco Ponce, et al.,* RTC Branch 34, indorsed this criminal case of *People of the Philippines versus Evaristo Manahon* for Qualified Theft, Crim. Case No. 11427, through its Clerk of Court, Raymundo Jorge A. Mercado, on June 27, 1994 (Please see p. 27 of the Records of the case, or simply herein attached xerox copy of the indorsement, Annex "F") to RTC Branch 44, presided by Judge Tan.

Reason for the exchange of this criminal case is that there is only one court created by the Supreme Court as a Special Court to handle forestry law violations.

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FOURTH ROUTE OF CRIMINAL CASE NO. 11427:

As this case reached RTC Branch 44, something developed. The accused filed a criminal case before the Ombudsman, an Administrative Case before the Supreme Court, on grounds Evaristo Manahon thought of. Not only this, he also filed a motion in court, on August 5, 1994 for Judge Alvin L. Tan to inhibit in trying his criminal case on the merits, which motion Judge Tan granted and per ORDER issued by him dated August 17, 1994, he forwarded the records of this criminal case to the Office of the Executive Judge for a re-raffle, subject to an exchange with another case of the same nature and status, on August 18, 1994. And on August 24, 1994 there was a re-raffle of this case together with the other criminal and civil cases in its regular raffle and was re-assigned to RTC Branch 31, presided by then retired Judge Jesus C. Magno.

In the meantime, the Court referred the complaint to then Associate Justice Arturo B. Buena of the Court of Appeals for investigation. The hearings set on 9, 10, and 11 August 1995 were cancelled on motion of the complainant. Thereafter, complainant requested a change of venue on the ground that he was financially hard-up. This Court denied the request for change of venue; nevertheless, it resolved to delegate the reception of evidence to Executive Judge Eleuterio E. Chiu of the RTC of Dumaguete City, Branch 32. The records of the case were thereafter transmitted to Judge Chiu.

Judge Chiu, however, suggested that Judge Temistocles B. Diez take his place in view of his scheduled heart bypass operation. Accordingly, the designation of Judge Chiu was revoked, and Judge Temistocles Diez was designated to receive the evidence. Judge Diez set the hearing of the case; however, he inhibited himself on the ground that he is a *compadre* of respondent Judge Tan and a *comadre* of Atty. Renee D. Tan, respondent's wife and counsel. He further manifested that Judge Chiu had already resumed performing his duties. The case was then referred back to Judge Chiu for investigation.

As prayed by complainant over the objection of respondent, the hearing of the case before Judge Chiu on 25 September 1998 was postponed to enable complainant to secure the services

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of counsel and the appearance of witnesses. When the case was called on 28 September 1998 for the reception of complainant's evidence, Atty. Elpidio Unto, who appeared as counsel for complainant, manifested that the complainant had no evidence to support his charge against respondent. Complainant himself confirmed the manifestation of his counsel. Thus:

COURT:

> So do I get it right from you that as a lawyer of Evaristo Manahon, in your assessment of the case, you find no evidence against the respondent?

ATTY. UNTO:

> Yes, your Honor, that there is really no sufficient evidence to warrant the answer or responsibility of Judge Tan in this case, that is my personal opinion.

COURT:

> So may I just ask one or two questions from the complainant regarding your manifestation.

ATTY. UNTO:

> Yes.

COURT: (To Mr. Evaristo Manahon)

> So Mr. Manahon, in your complaint you said you are filing a formal complaint for illegal arrest and detention, grave abuse of discretion, abuse of authority, against Judge Alvin Tan. So do I get it right from you also that you realize that there is really no evidence against Judge Tan on these grounds of your administrative complaint.

MR. MANAHON:

> Yes.

COURT:

> And so you also confirm the manifestation of your lawyer Atty. Elpidio Unto, that you desire to withdraw the complaint for the reason that you have no evidence against Judge Tan?

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MR. MANAHON:

Yes. (TSN, *Rollo,* 158-159).

Thereafter, complainant filed a written motion to withdraw the complaint. He likewise executed an Affidavit of Desistance seeking the dismissal of his administrative complaint against respondent Judge, since he could not prove his case against the latter.

In view of the absence of evidence to substantiate the administrative complaint, as admitted by complainant, coupled with the motion to withdraw the complaint, and the affidavit of desistance, Judge Chiu terminated the investigation and recommended the dismissal of this administrative case.

Meanwhile, due to the appointment of Mr. Justice Arturo Buena as Associate Justice of this Court, the case was re-assigned to Associate Justice Mariano Umali of the Court of Appeals.

In his Report of 30 June 1999, Justice Umali evaluated the merits of the case, despite complainant's affidavit of desistance, for the following reason: "In administrative cases, the rule is settled that the charge should not be made to depend upon the will of the complainant. The investigation may proceed notwithstanding the desistance of the complainant more so as in this case where the deprivation of the complainant's liberty is at stake."

Justice Umali found that the criminal case against the complainant was originally raffled to Branch 43 of the RTC of Dumaguete City, presided over by Judge Winston Villegas. This case was later transferred to Branch 34, presided by Judge Rosendo Bandal, Jr., in exchange for a criminal case assigned to said Branch which was transferred to Branch 43 as a result of a consolidation. Thereafter, the case against complainant was transferred to respondent's sala in exchange for a criminal case for violation of forestry laws, which respondent referred to Judge Bandal's sala, it being a Special Criminal Court designated to handle forestry law violations. Justice Umali found nothing irregular in the said transfers of the case against complainant. Anent complainant's allegation that respondent

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harassed complainant by releasing him only on 20 July 1994 although he posted a cash bond on 19 July 1994, Justice Umali held that the same was not supported by sufficient evidence; neither was respondent's act shown to have been motivated by malice or bad faith. Before writing *finis* to the report, Justice Umali stated:

> While litigants should not be discouraged to ventilate their grievances against judges, the charge should not be utterly false and frivolous especially when based on a mere suspicion. An unfounded charge is a classic case of a suit to harass members of the bench. A judge regard[s] [as] sacred his integrity and reputation and could only hope to be the only legacy he could proffer to his children. It is here significant to note, deeply regrettable that respondent judge failed to receive his fringe benefits, presumably since 1995. We need not emphasize that the damage done to him, to the members of his family even more, is now beyond repair. In fact, the status of respondent's case in the Ombudsman is not yet known.

Justice Umali then recommended the *DISMISSAL* of the charges against respondent Judge Tan.

Under the circumstances, we have no other recourse except to approve the recommendation and, thus, dismiss the case. There is absolutely no evidence against respondent Judge. This is another instance where a baseless complaint robbed a Judge of precious time which he could have otherwise devoted to the cases in his court. Complainant must then be reprimanded.

WHEREFORE, for utter lack of merit and lack of evidence, this case is *DISMISSED* and *TERMINATED.*

SO ORDERED.

Puno, Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.