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SECOND DIVISION

[A.M. No. RTJ-00-1565. August 16, 2001]

FEDERICO S. BERNARDO, *complainant, vs.* **JUDGE PATERNO G. TIAMSON, RTC, Branch 69, Binangonan, Rizal,** *respondent.*

SYNOPSIS

Complainant is the president of Sinag-Dagat, Inc. which, in 1983, was granted by the Laguna Lake Development Authority (LLDA) a permit to undertake a project in a certain fishpond. The permit was later revoked, but the Sinag-Dagat has a pending application therefor. Respondent judge, on the other hand, claimed ownership of the lands adjacent to the fishpond which he enclosed by dikes and have been operating from 1995 to 1997. That in 1998, when complainant entered the subject fishpond and placed bamboo poles and fishing nets therein, respondent cut and destroyed the same. Complainant then filed this case of misconduct and acts unbecoming of a judge against respondent Judge.

For a judge to be held guilty of misconduct, the acts complained of must be related to his official duties and not such only as affects his character as a private individual. Nevertheless, respondent should be admonished to be careful even in his private conduct because he is a model of the law-abiding citizen and for this reason, his private life cannot be completely separated from his public persona.

SYLLABUS

1. **ADMINISTRATIVE LAW; JUDGES; MISCONDUCT; ACT COMPLAINED OF MUST BE RELATED TO OFFICIAL DUTIES.**— In *Amosco v. Magro,* this Court held that for a judge to be held guilty of misconduct, the act complained of must be such as to affect the performance of respondent's duties as an officer and not such only as affects his character as a private individual. It was stated that it is necessary to separate the character of the man from his character as an officer of the court. In the case of *Salcedo v. Inting*, it was held that, to warrant disciplinary action against a judge, the misfeasance or malfeasance complained of must have a direct relation to and be connected with the performance of his

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official duties so as to amount either to maladministration, wilful intentional neglect, or failure to discharge the duties of a judge.

2. **ID.; ID.; IMPROPER PRIVATE CONDUCT, ADMONISHED.**— Respondent Judge, in removing the bamboo poles and fishing nets installed by complainant, acted in his private capacity. Nevertheless, without in any way prejudging respondent's liability, respondent should be admonished to be careful even in his private conduct because he is a model of the law-abiding citizen and, for this reason, his private life cannot be completely separated from his public persona. As the symbol of law and order, a judge must refrain from taking the law in his own hands and instead must resort to the courts for the vindication of his rights. Except in extreme cases where he must act in self-defense, a judge must abide by the orderly processes of the law to protect his rights.

APPEARANCES OF COUNSEL

Rolando. B. Miranda for complainant.

RESOLUTION

MENDOZA, *J.*:

This is a complaint for misconduct and acts unbecoming a judge filed against Judge Paterno G. Tiamson of the Regional Trial Court, Branch 69, Binangonan, Rizal.

Complainant Federico S. Bernardo is the president of Sinag-Dagat, Inc., a duly registered association of marginalized fishermen and farmers which, in 1983, was granted by the Laguna Lake Development Authority (LLDA) a permit to undertake a project in a three-hectare area of the Integrated Aqua Farm located in Barangay Pag-asa, Binangonan, Rizal. Although its permit was later revoked, the Sinag-Dagat, Inc. filed in 1999 another application which was pending approval by the LLDA when the incident resulting in the filing of this case arose.

On the other hand, respondent, Judge Paterno G. Tiamson, is the owner of two adjacent parcels of land along the Laguna Lake, adjacent to a fishpond enclosed by dikes (*kalsadang pilapil*). Respondent's fishpond is located on the shoreland below the 12.50-

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meter level as determined by the LLDA. From 1995 to 1997, he operated the fishpond unmolested by anyone, but in 1998, complainant and his men entered the fishpond and placed bamboo poles and fishing nets around one of the compartments adjoining the same.

On July 4, 1999, at 7:00 a.m., respondent, his son Patnubay Tiamson, and a certain Jerry Romero cut and destroyed the bamboo poles and fishing nets. The incident was witnessed by Teresa Cochero and Darwin Bernardo, caretakers of the fishpond, who asked respondent to stop causing further damage to the same. Respondent, however, paid no heed to their pleas.

Complainant alleged that respondent had earlier built dikes along the fishpond without any court order. He alleged that respondent's removal of the bamboo poles and fishing nets constituted misconduct rendering him unfit for his position as a judge.

In his comment, respondent claimed that in 1998, complainant and his men surreptitiously entered a portion of his fishpond and installed bamboo poles and fishing nets thereon; that the issue of possession of the fishpond and the encroachment made by complainant and his men was pending decision by LLDA; that on January 11, 2000, the LLDA informed complainant that his temporary permit, dated November 15, 1983, to use the shoreland (*lupang kanduli*) along Laguna de Bay, had already expired and, therefore, complainant and his men had no authority to enter his fishpond; and that in removing the bamboo poles and fishing nets installed around the fishpond by complainant and his men, respondent acted in the exercise of his right as an owner and that, consequently, complainant had no right to be indemnified for the damage sustained as a result of complainant's act.

The case was referred to Justice Rebecca De Guia-Salvador of the Court of Appeals for investigation, report, and recommendation. Investigating Justice Salvador found respondent to have committed the acts complained of and recommended that respondent be admonished not to commit similar acts of misconduct in the future, otherwise, he would be subject to disciplinary action. The Investigating Justice noted that under LLDA Resolution No. 113, Series of 1999, since the subject fishpond is below the lake level

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of elevation of 12.50 meters, the same is considered a public land forming part of the lake bed. Hence, the fishpond cannot be the subject of ownership by private persons through land registration, but can only be acquired through lease from the LLDA by the adjoining owners and/or qualified applicant/s in accordance with the Lake Fishery Zoning and Management Plan. It is noteworthy that in a letter, dated January 11, 2000, the LLDA notified complainant that the permit previously granted to the Sinag-Dagat, Inc. on November 15, 1983 to use the shoreland along Laguna de Bay had already expired and, therefore, complainant should see the authorities at the LLDA if he was interested in renewing the same.

However, since the dispute between the parties regarding the possession of the subject fishpond is now the subject of a pending case before the LLDA, respondent should have refrained from any act that could only exacerbate the tension between him and complainant. To be sure, in *Amosco v. Magro*,[1] this Court held that for a judge to be held guilty of misconduct, the act complained of must be such as to affect the performance of respondent's duties as an officer and not such only as affects his character as a private individual. It was stated that it is necessary to separate the character of the man from his character as an officer of the court. In the case of *Salcedo v. Inting*,[2] it was held that, to warrant disciplinary action against a judge, the misfeasance or malfeasance complained of must have a direct relation to and be connected with the performance of his official duties so as to amount either to maladministration, wilful intentional neglect, or failure to discharge the duties of a judge.

In this case, respondent, in removing the bamboo poles and fishing nets installed by complainant, acted in his private capacity. Nevertheless, without in any way prejudging respondent's liability, respondent should be admonished to be careful even in his private conduct because he is a model of the law-abiding citizen and, for this reason, his private life cannot be completely separated from his public persona. As the symbol of law and order, a judge must

[1] 73 SCRA 107 (1976).

[2] 91 SCRA 19 (1979).

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refrain from taking the law in his own hands and instead must resort to the courts for the vindication of his rights. Except in extreme cases where he must act in self-defense, a judge must abide by the orderly processes of the law to protect his rights.

WHEREFORE, the administrative complaint against respondent Judge Paterno G. Tiamson of the Regional Trial Court, Branch 69, Binangonan, Rizal is *DISMISSED*, but he is admonished to use pacific and lawful means for the vindication of his rights.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

FIRST DIVISION

[G: R. No. 119900. August 16, 2001]

SUNNY MOTORS SALES, INC., *petitioner, vs.* **HONORABLE COURT OF APPEALS, HONORABLE JUDGE OSCAR L. LEVISTE, as the Presiding Judge of the Regional Trial Court, Branch 97, Quezon City, and MS. LOLITA L. SANTIAGO,** *respondents.*

SYNOPSIS

When petitioner entered the premises leased by Santiago from Genito, claiming that it is the new owner of the property, Santiago filed a complaint for damages before the RTC. Petitioner, however, moved to dismiss the same alleging that the action is one for forcible entry that falls within the exclusive jurisdiction of the MTC.

The Court agreed with the contention of petitioner. What determines the nature of an action as well as which court has