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EFFECTIVE ON THE DATE HE RECEIVES A COPY OF THIS RESOLUTION.

Teehankee (Chairman), Aquino, Concepcion, Jr., and *Martin, JJ.,* concur.

Muñoz Palma, J., reserves her vote.

Aquino, J., was designated to sit in the First Division.

SECOND DIVISION

[A.M. No. 439-MJ. September 30, 1976]

GENEROSO AMOSCO, *complainant, vs.* **JUDGE ADRIANO O. MAGRO of Can-avid, Eastern Samar,** *respondent.*

SYLLABUS

1. LEGAL AND JUDICIAL ETHICS; JUDGES; MISCONDUCT IN OFFICE; NOT A CASE OF.— The matter was investigated and referred to the Acting Judicial Consultant, Justice Lorenzo Relova. He recommended that the case "may be dismissed outright." His report stated further: "Pursuant to Section 1(v), Presidential Decree No. 6, '[w]illful failure to pay just debts ***' is a ground for disciplinary action. The term 'just debts,' applies to (1) claims adjudicated by a court of law, or (2) claims the existence and justness of which are admitted by the debtor [Section 19-(N), Rule XVIII, B, Civil Service Rules]. Respondent's defense in his answer of May 8, 1973, namely, that 'he has long settled and paid same indebtedness *** long time ago as evidenced by the original receipt delivered by *** complainant' to him ***, would already refute complainant's assertion and place the money claim beyond the purview of the term 'just debts.'"

2. ID.; ID.; ID.; DEFINED AND ELUCIDATED.— Misconduct in office was authoritatively defined by Justice Tuazon in *Lacson v. Lopez*

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in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer. *** It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office ***.'" More specifically, in *Buenaventura v. Benedicto*, an administrative proceeding against a judge of the court of first instance, the present Chief Justice defines misconduct as referring "to a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer." That is to abide by the authoritative doctrine as set forth in the leading case of *In re* Horilleno, a decision penned by Justice Malcolm, which requires that in order for serious misconduct to be shown, there must be "reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules."

RESOLUTION

FERNANDO, *J.*:

Respondent Judge Adriano O. Magro of Can-avid, Eastern Samar, would be held answerable by complainant, Generoso Amosco, of grave misconduct in office for his alleged failure to pay the amount of ₱215.80 for the purchase of empty Burma sacks. Respondent was required to answer. He denied the charge pointing to the original receipt returned to him by the complainant. Moreover, he invoked the legal defense that since the matter did not involve the discharge of his duties, he could not be held liable for misconduct. Moreover, he took pains to stress that the transaction took place in the town of Dolores and not in Can-avid. Complainant, through counsel, was given the opportunity to file a reply. He did not do so.

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The matter was investigated and referred to the Acting Judicial Consultant, Justice Lorenzo Relova. He recommended that the case "may be dismissed outright."[1] His report stated further: "Pursuant to Section 1(v), Presidential Decree No. 6, '[w]illful failure to pay just debts ***' is a ground for disciplinary action. The term 'just debts,' applies to (1) claims adjudicated by a court of law, or (2) claims the existence and justness of which are admitted by the debtor [Section 19-(N), Rule XVIII, B, Civil Service Rules]. Respondent's defense in his answer of May 8, 1973, namely, that 'he has long settled and paid same indebtedness *** long time ago as evidenced by the original receipt delivered by *** complainant' to him ***, would already refute complainant's assertion and place the money claim beyond the purview of the term 'just debts.'"[2]

The recommendation of the Acting Judicial Consultant merits the approval of this Court. Misconduct in office was authoritatively defined by Justice Tuazon in *Lacson v. Lopez*[3] in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer ***. It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer, must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office ***.'"[4] More specifically, in *Buenaventura v. Benedicto*,[5] an administrative proceeding

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[1] Recommendation of Acting Judicial Consultant, Lorenzo Relova, dated September 1, 1976.

[2] *Ibid.*

[3] 92 Phil. 456 (1953).

[4] *Ibid*, 465.

[5] Administrative Case No. 137-J, March 27, 1971, 38 SCRA 71.

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against a judge of the court of first instance, the present Chief Justice defines misconduct as referring "to a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer."[6] That is to abide by the authoritative doctrine as set forth in the leading case of *In re Horilleno*,[7] a decision penned by Justice Malcolm, which requires that in order for serious misconduct to be shown, there must be "reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law, or were in persistent disregard of well-known legal rules."[8]

WHEREFORE, the administrative complaint against respondent Judge Adriano O. Magro is dismissed for lack of merit. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Aquino, and *Concepcion, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. 662-MJ. September 30, 1976]

PATROCINIA F. MAGDAMO, *complainant, vs.* **JUDGE TEODORO O. PAHIMULIN,** *respondent.*

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[6] *Ibid*, 76.

[7] 43 Phil. 212 (1922).

[8] *Ibid.* Cf. *Enriquez v. Araula,* Adm. Case No. 270-J, Dec. 18, 1973, 54 SCRA 232; *Tombo v. Medina,* Adm. Case No. 929, Jan. 17, 1974, 55 SCRA 13; *Lampauog v. Villarojo*, Adm. Matter No. 381-MJ, Jan. 28, 1972, 55 SCRA 304; *Bartolome v. De Borja*, Adm. Matter No. 1096, May 31, 1976.