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**IN LIGHT OF ALL THE FOREGOING,** the petition is *DENIED*. The Decision of the Court of Appeals is *AFFIRMED*.

**SO ORDERED.**

*Puno (Chairman), Quisumbing, Austria-Martinez,* and *Tinga, JJ.*, concur.

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**SECOND DIVISION**

[A.M. MTJ No. 04-1526. February 2, 2004]

(Formerly A.M. OCA IPI No. 01-1001-MTJ)

**JOCELYN V. GRAGEDA,** *complainant, vs.* **JUDGE NIETO T. TRESVALLES,* Municipal Trial Court, Virac, Catanduanes,** *respondent.*

**SYNOPSIS**

For granting bail to an accused in a murder case without conducting the requisite hearing, the respondent judge was administratively charged with gross ignorance of the law and abuse of authority. In his Comment, the respondent judge argued that the granting of bail is an exercise of judgment and that the hearing is only necessary if there is an application for admission to bail. He further claimed that his act was done in good faith.

The Court found the respondent judge guilty of gross ignorance of the law for which he was fined Ten Thousand Pesos. According to the Court, admission to bail presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding application for bail, it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong. Discretion must be exercised regularly, legally, and within the confines

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* The respondent compulsorily retired on January 22, 2004.

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of due process, that is, after the evaluation of the evidence submitted by the prosecution. However, in this case, the respondent judge *motu proprio* granted bail to the accused. The prosecution was not even afforded an opportunity to present its evidence, in accordance with the Rules. The respondent judge's claim of good faith will not exonerate him from administrative liability. Moreover, the respondent judge did not make any findings of fact and law supporting his action as mandated by Section 5, Rule 112 of the Rules of Court. A judge owes it to himself and his office to know by heart basic legal principles and to harness his legal know-how correctly and justly — anything less than that is constitutive of the serious charge of gross ignorance of the law, perhaps, grave misconduct.

## SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; CHARGE OF GROSS IGNORANCE OF THE LAW; RULE ON GRANT OF BAIL VIOLATED BY THE RESPONDENT JUDGE WHEN HE GRANTED BAIL TO AN ACCUSED CHARGED OF MURDER WITHOUT CONDUCTING THE REQUISITE HEARING.**— We agree that the respondent judge is administratively liable for granting bail to an accused charged with murder without conducting the requisite bail hearing. The importance of a hearing in applications for bail should once more be emphasized. Section 8, Rule 114 provides as follows: x x x. The importance of the Rule lies on the fact that on the result of the bail hearing depends the right of an accused to provisional liberty *vis-a-vis* the duty of the State to protect the people against dangerous elements. The resolution of the issue affects important norms in our society: liberty on one hand, and order on the other. To minimize, if not eliminate, error and arbitrariness in a judge's decision, the Rules require the judge to hear the parties and then make an intelligent assessment of their evidence.

2. **ID.; ID.; ID.; JUDICIAL DISCRETION ON THE GRANT OF BAIL MUST BE EXERCISED REGULARLY, LEGALLY, AND WITHIN THE CONFINES OF DUE PROCESS.**— The respondent's argument that a hearing is "only necessary if there is an application for admission to bail" is erroneous. Admission to bail presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it

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is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong. In other words, discretion must be exercised regularly, legally, and within the confines of due process, that is, after the evaluation of the evidence submitted by the prosecution. In this case, the respondent judge *motu proprio* granted bail to the accused. The prosecution was not even afforded an opportunity to present its evidence, in accordance with the Rules.

**3. ID.; ID.; ID.; CLAIM OF GOOD FAITH WILL NOT EXONERATE RESPONDENT JUDGE FROM ADMINISTRATIVE LIABILITY FOR GRANTING BAIL WITHOUT CONDUCTING THE REQUISITE HEARING.**— We likewise agree with the finding of the Executive Judge that the respondent's claim of good faith will not exonerate him from administrative liability. x x x. In the recent case of *Rosalia Docena-Caspe v. Judge Arnulfo O. Bagtas,* the Court stressed the indispensable nature of a hearing in petitions for bail, citing a plethora of cases, where judges were found to be grossly ignorant of the rules and procedures and were fined ₱20,000.00 therefor.

**4. ID.; ID.; JUDGES SHOULD KNOW BY HEART BASIC LEGAL PRINCIPLES AND TO HARNESS THEIR LEGAL KNOW-HOW CORRECTLY AND JUSTLY.**— A judge owes it to himself and his office to know by heart basic legal principles and to harness his legal know-how correctly and justly — anything less than that is constitutive of the serious charge of gross ignorance of the law, perhaps, grave misconduct. In *Celestina B. Corpuz vs. Judge Orlando F. Siapno,* we had the occasion to state, thus: When a judge displays an utter unfamiliarity with the law and the rules, he erodes the confidence of the public in the courts. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and the prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.

## D E C I S I O N

**CALLEJO, SR., *J.*:**

The instant administrative case arose when Jocelyn V. Grageda filed an Affidavit-Complaint[1] dated January 18, 2000

[1] *Rollo*, pp. 003-006.

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charging Judge Nieto T. Tresvalles, Municipal Trial Court, Virac, Catanduanes, with gross ignorance of the law and abuse of authority relative to Criminal Case No. 5307 entitled *People v. Bernardo Tablizo, Jr.* for murder.

The facts that led to the filing of the complaint as summarized by Executive Judge Romulo P. Atencia, are as follows:

The complainant in this administrative case was the wife of Gil Grageda who died at about 8:30 in the evening of November 24, 2000 in Constantino, Virac, Catanduanes due to multiple stab wounds. On December 1, 2000, a complaint charging Bernardo Tablizo, Jr. *y* Pitajen for the murder of Gil Grageda was filed for preliminary investigation with the Municipal Trial Court, 5th Judicial Region, Virac, Catanduanes, presided by respondent Judge Nieto T. Tresvalles, docketed therein as Criminal Case No. 5307.

After Criminal Case No. 5307 was filed in his court for preliminary investigation, Judge Nieto T. Tresvalles conducted a preliminary examination on December 5, 2000. On the same day, December 5, 2000, he issued an Order which textually reads, as follows:

> "After conducting the preliminary investigation, the Court believes that a *prima facie* case exists that the crime charged has been committed and that the accused is probably guilty thereof. Let therefore a warrant of arrest issue for his arrest. The bail bond of ₱30,000.00 is hereby fixed for his provisional liberty on the ground that the evidence of guilt of the accused is not strong.
>
> "SO ORDERED."

The corresponding warrant for the arrest of Bernardo Tablizo, Jr. was issued on the same day, stating that the bail for the accused's temporary liberty was in the amount of ₱30,000.00.

The accused surrendered on December 11, 2000. The respondent Judge immediately issued an order committing the person of the accused Bernardo Tablizo, Jr. *y* Pitajen to the Municipal Jail Warden, Bureau of Jail Management and Penology, Virac, Catanduanes. Also on the same day, the accused, through counsel, filed a motion to strike out the testimony of witness Perlita Tablizo (wife of the accused) and to grant accused bail.

The following day, December 12, 2000, the respondent Judge issued an Order releasing accused Bernardo P. Tablizo, Jr. from the custody

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of law after the latter posted a personal bail bond in the amount of ₱30,000.00.

In an Order dated February 28, 2001, the respondent transmitted the records of the case to the Office of the Provincial Prosecutor, which contained a denial of the accused's motion to strike out the testimony of Perlita Tablizo.

First Assistant Provincial Prosecutor Antonio C.A. Ayo, Jr. of the Office of the Provincial Prosecutor thereafter conducted preliminary investigation (I.S. No. 00-30), ultimately recommending the filing of an information for murder against Bernardo P. Tablizo, Jr. with the aggravating circumstances of use of motor vehicle, treachery and evident premeditation. No bail was recommended for the temporary liberty of the accused.

Thereafter, an information charging Bernardo P. Tablizo, Jr. for murder was filed with the Regional Trial Court, Branch 43, which is now awaiting decision.[2]

The respondent was, thereafter, charged with gross ignorance of the law, conduct unbecoming of a member of the Bench, failure to conduct himself in a manner that would justify his continued stay in the judiciary, and violation of the Code of Judicial Conduct.[3] According to the complainant, the respondent judge granted bail to the accused in Criminal Case No. 5307 without the requisite bail hearing, despite the fact that there was an eyewitness to the murder who made a positive identification of the accused. The complainant also alleged that the amount of ₱30,000.00 printed on the Warrant of Arrest issued by the respondent judge appeared to be "snowpaked," an indication that another entry was previously made, possibly a "no bail recommendation." Furthermore, no counter-affidavit or answer was filed by the accused during the preliminary investigation conducted by the respondent judge, and it took the police authorities seven days to arrest the accused after the issuance of the warrant of arrest. Thus:

16. I hereby execute this Affidavit to respond to the call in (*sic*) to encouraging the public to report erring judges to the Supreme

[2] *Rollo*, pp. 102-103.

[3] *Id.* at 002.

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Court and not to the media, as I am also very much concerned, not only of being a victim of injustice, but also of being prejudicial to [the] government's interest as a consequence of incompetence, gross ignorance, misconduct of the Presiding Judge Nieto T. Tresvalles of the Municipal Trial Court of Virac, Catanduanes in the granting of bail to the accused, even when the evidence of his guilt was strong and without an Application for Bail, considering that a Complaint for Murder was filed, and without an Order, to which the judge is to make as Summary of Evidence filed by the complainant and her witnesses to immediately cut short his membership in the Bench, be terminated and dismissed from the judicial service with forfeiture of all his benefits and leave credits with prejudice to his re-employment in any public office.[4]

In his Comment, the respondent admitted that no bail hearing was conducted in Criminal Case No. 5307, but reasoned that the evidence of the guilt of the accused was not strong. According to the respondent, the matter of granting bail is an exercise of judgment, and that the accused should not be denied his constitutional right to bail.

It is true that a hearing is necessary before an accused should be released on bail in cases where the granting of bail is discretionary on the part of the judge. However, it is also equally true that in the exercise of his sound discretion and opinion, he is not also precluded in seeing to it that the evidence of the prosecution is adduced in support for the denial of bail to the accused to guide the court on what to do on the matter. But the public prosecutor failed during the hearing.[5]

The respondent also explained that a judge issuing a warrant of arrest is not an arresting officer. Thus, if it took seven days for the accused to be arrested after the issuance of the warrant, it was no longer his concern.

In its Report[6] dated June 19, 2003, the Office of the Court Administrator opined that Sections 7 and 8 of Rule 114 of the

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[4] *Id.* at 005-006.

[5] *Id.* at 022.

[6] *Id.* at 062-065.

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Rules of Court make it mandatory for the court to conduct a hearing before an accused charged with a capital offense is granted bail, and that failure to do so amounts to gross ignorance of the law. It was recommended that the complaint be re-docketed as a regular, administrative matter and that the respondent judge be fined in the amount of ₱10,000.00 with a stern warning that a repetition of the same act shall be dealt with more severely.

In a Resolution dated July 28, 2003, the Court referred the matter to Executive Judge Romulo P. Atencia. Thereafter, the Executive Judge submitted his Report and Recommendation dated November 6, 2003.

According to the Executive Judge, the actual implementation of a warrant of arrest is the responsibility of other functionaries of the government. In fact, the respondent issued the warrant of arrest on December 5, 2000, only four days after the case was filed in his sala on December 1, 2000. Thus, the respondent cannot be blamed in any wise if the accused was not arrested or held in custody prior to December 11, 2000.

According to the Executive Judge, the charge that no bail was really granted for the provisional liberty of the accused in the sum of ₱30,000 and that the said amount was merely superimposed on the warrant of arrest is not supported by the records. Since the respondent issued an Order on December 5, 2000 fixing the bail at ₱30,000, the contention that no such order granting bail was issued is, likewise, devoid of merit. Thus, the Executive Judge concluded, even assuming that there was such a superimposition on the warrant of arrest, the same was merely made to conform to the said Order.

Anent the charge that the accused was not required to file a comment on the complaint, the Executive Judge found that no fault could be attributed to the respondent on this regard, as it is the prerogative of the accused to submit any pleading in his defense. However, the respondent judge failed to make any findings of facts and the law supporting his action as mandated by Section 5, Rule 112 of the Rules of Court.

The Executive Judge also stated that at the time the respondent judge granted bail to the accused on December 5, 2000, no

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application for bail had as yet been filed by the accused. Furthermore, no hearing was held to determine whether the evidence of the prosecution on the guilt of the accused was strong or not.[7] According to the Executive Judge, a hearing is required to afford the judge a basis for determining the existence of the facts set forth under Section 6, Rule 114 of the Rules of Court in granting or rejecting a plea of bail. Thus, the grant of bail without due hearing deprives the prosecution of procedural due process, a right to which it is equally entitled to as the defense. Thus:

> The respondent Judge seeks to justify his grant of bail by claiming that "the testimonies of the witnesses will not warrant the charge of murder." This claim, however, is belied by his own Order granting bail when he stated that "the Court believes that a *prima facie* case exists that the crime charged has been committed and that the accused is probably guilty thereof." The offense for which he found the accused to be probably guilty of is "Murder," since it was "the crime charged" . . . The warrant of arrest issued by the respondent Judge designated the offense as "Murder.". . .[8]

The Executive Judge agreed with the finding of the Court Administrator that the respondent is guilty of gross ignorance of the law.

We agree that the respondent judge is administratively liable for granting bail to an accused charged with murder without conducting the requisite bail hearing.

The importance of a hearing in applications for bail should once more be emphasized. Section 8, Rule 114 provides as follows:

> Sec. 8. *Burden of proof in bail application.* — At the hearing of an application for bail filed by a person who is in custody for the commission of an offense punishable by death, *reclusion perpetua*, or life imprisonment, the prosecution has the burden of showing that the evidence of guilt is strong. The evidence presented during the bail hearing shall be considered automatically reproduced at the trial

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[7] *Rollo*, p. 106.

[8] *Ibid.*

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but, upon motion of either party, the court may recall any witness for additional examination unless the latter is dead, or otherwise, unable to testify.

The importance of the Rule lies on the fact that on the result of the bail hearing depends the right of an accused to provisional liberty *vis-a-vis* the duty of the State to protect the people against dangerous elements. The resolution of the issue affects important norms in our society: liberty on one hand, and order on the other. To minimize, if not eliminate, error and arbitrariness in a judge's decision, the Rules require the judge to hear the parties and then make an intelligent assessment of their evidence.[9]

The respondent's argument that a hearing is "only necessary if there is an application for admission to bail" is erroneous. As found by the Executive Judge:

> . . . [T]he fact that the accused has not even filed yet any application for bail at the time bail was fixed on December 5, 2000 aggravates matters. To state the obvious, there was no occasion for the respondent Judge to exercise any discretion on the matter of bail at that point in time as the accused was not asking to be released on temporary liberty. The respondent Judge should have followed the straight and trodden path, well-traveled by members of the bench, that bail should not be allowed in cases of murder. It might also be worth mentioning, in passing, that the right to bail may be waived considering its personal nature. It arises from the time one is placed in the custody of the law. The fact that the respondent Judge already granted bail when the accused has not been arrested yet compounds the aggravation.[10]

Admission to bail presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The prosecution must first be accorded an opportunity to present evidence because by the very nature of deciding applications for bail, it is on the basis of such evidence that judicial discretion is weighed against in determining whether the guilt of the accused is strong. In other words, discretion must be exercised regularly,

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[9] *Re: Release by Judge Manuel T. Muro, RTC. Br. 54, Manila, of an Accused in a Non-Bailable Offense.*

[10] *Rollo*, p. 107.

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legally, and within the confines of due process, that is, after the evaluation of the evidence submitted by the prosecution.[11] In this case, the respondent judge *motu proprio* granted bail to the accused. The prosecution was not even afforded an opportunity to present its evidence, in accordance with the Rules.

We likewise agree with the finding of the Executive Judge that the respondent's claim of good faith will not exonerate him from administrative liability.

The respondent Judge also argues in his Position Paper submitted to the undersigned Executive Judge that there is absolutely no evidence to show that he was motivated by bad faith, fraud, dishonesty or corruption in granting bail. As such, he argues that his act which was done in his official capacity is not subject to disciplinary action. Unfortunately for the respondent Judge, it is already settled that when a judge grants bail to a person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment without conducting the required [bail] hearing, he is considered guilty of ignorance or incompetence the gravity of which cannot be excused by a claim of good faith or excusable negligence. . . .[12]

In the recent case of *Rosalia Docena-Caspe v. Judge Arnulfo O. Bagtas*,[13] the Court stressed the indispensable nature of a hearing in petitions for bail, citing a plethora of cases,[14] where judges were found to be grossly ignorant of the rules and procedures and were fined ₱20,000.00 therefor.

Moreover, the respondent judge failed to adhere to the mandate of Section 5, Rule 112 of the Rules of Court which provides:

Sec. 5. *Resolution of investigating judge and its review.* — Within ten (10) days after the preliminary investigation, the investigating

[11] *Fortuna v. Penaco-Sitaca*, 358 SCRA 615 (2001).

[12] *Rollo*, p. 107.

[13] A.M. No. RTJ-03-1767, March 28, 2003.

[14] *Manonggiring v. Ibrahim*, A.M. No. RTJ-01-1663, November 15, 2002; *Panganiban v. Cupin-Tesorero*, A.M. No. MTJ-02-1454, August 27, 2002; *Tabao v. Barataman*, A.M. No. MTJ-01-1384, April 11, 2002; *Comia v. Antona*, 337 SCRA 656 (2000); *Layola v. Gabo, Jr.*, 380 Phil. 318 (2000).

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judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcripts of the proceedings during the preliminary investigation; and (e) the order of cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

No such report on the findings of fact and law was made by the respondent. As found by the Executive Judge, the December 5, 2000 Order of the respondent finding probable cause that the crime of murder was committed was made only for the purpose of issuing of a warrant of arrest against the accused, thus:

It is apparent that the aforementioned finding was made only for purposes of issuance of a warrant of arrest, as at that time, the accused was still at large. Strictly speaking, this was not yet a finding of any *prima facie* case upon which an Information charging the proper offense should be filed in court. The respondent Judge was yet to issue a subpoena to the accused attaching to it a copy of the complaint and its supporting affidavits and documents as required under Sec. 3(a), Rule 112 of the Rules of Court. The accused has not yet submitted any counter-affidavit or has waived the submission thereof. In other words, preliminary investigation was not yet terminated. Subsequently, however, the respondent Judge never issued any other resolution on the result of the preliminary investigation he conducted up to the time he transmitted the records to the Office of the Provincial Prosecutor. The respondent Judge did not make any findings of facts and the law supporting his action as mandated by Sec. 5, Rule 112 of the Rules of Court. Therefore, his original, premature finding of probable guilt made on December 5, 2000 was already his verdict on the preliminary investigation yet to be conducted. This cavalier disregard of procedural rules leaves much to be desired.[15]

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[15] *Rollo*, p. 108.

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A judge owes it to himself and his office to know by heart basic legal principles and to harness his legal know-how correctly and justly — anything less than that is constitutive of the serious charge of gross ignorance of the law, perhaps, grave misconduct.[16] In *Celestina B. Corpuz vs. Judge Orlando F. Siapno*,[17] we had the occasion to state, thus:

When a judge displays an utter unfamiliarity with the law and the rules, he erodes the confidence of the public in the courts. A judge owes the public and the court the duty to be proficient in the law and is expected to keep abreast of laws and the prevailing jurisprudence. Ignorance of the law by a judge can easily be the mainspring of injustice.[18]

While the Executive Judge agreed that the respondent should be held administratively liable, it was recommended that he be merely reprimanded, as "a balancing of the equities involved should tilt the scales in favor of the respondent for his loyalty, diligence and reliability." Thus:

There are six (6) first level courts in the Province of Catanduanes. Of these, five (5) do not have incumbent judges. As the only judge in the first level courts, respondent Judge Nieto T. Tresvalles has, for many years, been Acting Judge of all the other vacant courts which are scattered throughout the island province, accessible only through dirt mountain roads. This necessarily entailed great sacrifices on the part of the respondent Judge, not to mention that the extra remuneration given to Judges for sitting in vacant salas is a mere pittance. Inasmuch as this administrative matter concerns the official acts of the respondent, equity demands that the bad be weighed together with the good.

PREMISES CONSIDERED, the undersigned is inclined to adopt the recommendation of the Office of the Court Administrator that the respondent Judge Nieto T. Tresvalles be FINED in the amount of ₱10,000.00 with a STERN WARNING that a repetition of the same act shall be dealt with more severely. However, considering that the

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[16] *Poso v. Mijares*, 387 SCRA 485 (2002).

[17] A.M. No. MTJ-96-1106, June 17, 2003.

[18] *Id.* at 7.

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said respondent is in the twilight of his career with the Judiciary, as his compulsory retirement is scheduled in January of the coming year which is barely two (2) months away, and considering further that the respondent Judge did the yeoman's job of single-handedly operating the judicial machinery in the Province of Catanduanes for many years as the only first level court Judge in the entire province, it is the respectful recommendation of the undersigned that respondent Judge Nieto T. Tresvalles be instead only REPRIMANDED. . . .[19]

The records show that the respondent judge compulsorily retired on January 22, 2004, having served thirty-four years in the judiciary. Under the circumstances, the Court finds that a fine of ₱10,000.00 is just and reasonable.

**WHEREFORE**, respondent Judge Nieto T. Tresvalles is found *GUILTY* of gross ignorance of the law and is *FINED* in the amount of Ten Thousand Pesos (₱10,000.00) to be deducted from his retirement benefits.

**SO ORDERED.**

*Puno (Chairman), Quisumbing, Austria-Martinez,* and *Tinga, JJ.*, concur.

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**SECOND DIVISION**

[A.C. No. 5602. February 3, 2004]

**HILDA D. TABAS,** *complainant, vs.* **ATTY. BONIFACIO B. MANGIBIN,** *respondent.*

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[19] *Rollo*, pp. 108-109.