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SECOND DIVISION

[A.M. No. 1786-CFI May 15, 1979]

LORETA EDERANGO, *complainant, vs.* **HON. LAURO TAPUCAR, District Judge, Court of First Instance of Agusan del Norte,** *respondent.*

SYLLABUS

1. JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE COMPLAINTS; COUNSEL TO OBSERVE GREAT CARE IN THE FILING THEREOF. — A member of the bar intent on preserving his good standing should exercise greater care in filing an administrative complaint, knowing fully well that there was a previous identical complaint. He is subject to censure for the impropriety committed by him and for disrespect to the Court.

2. ID.; ID.; ID.; SHALL BE DISMISSED FOR LACK OF MERIT. — Where the administrative complaint is a repetition, if not a reiteration, of the very same dates, with the same witnesses, and for the same offense, the same is to be dismissed for lack of merit.

RESOLUTION

FERNANDO, *Actg., C.J.:*

Conformably to the constant policy of this Court to vitalize the constitutional right to petition and to conduct inquiry into an administrative complaint, even if at times on the face thereof the liability of respondent is none-too-apparent,[1] the imputation of malfeasance or misfeasance is made the subject of an inquiry. When one Loreta Ederango therefore charged Judge Lauro L. Tapucar with immorality, the matter was referred for investigation, recommendation, and report to Justice Milagros A. German of

[1] Cf. *Tobias v. Ericta,* Adm. Case No. 242-J, July 29, 1972, 46 SCRA 83; *Bartolome v. De Borja,* Adm. Case No. 1096-CFI, May 31, 1976, 71 SCRA 153.

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the Court of Appeals. She conducted such investigation on March 26, 1979, complainant being represented by Attorney Tranquilino O. Calo, Jr., and respondent Judge Lauro Tapucar being represented by Attorney Wilfred Asis.

She saw to it that the matter was attended to with dispatch and promptness. When respondent Judge sought to defer the investigation,[2] this was her response: "Ah, no, I do not accept postponements. The parties have come all the way from Agusan at such great expense. I, myself, am a very busy woman and these investigations disturb my judicial work. You see all these cases (motioning towards the pile of rollos behind her), I have to attend to them, but I want to finish this investigation by tomorrow. I will receive the evidence for the complainant today, you can cross-examine the witnesses. You can present your evidence later, subject to the cross-examination by the other party. That is the way we proceed here in the Court of Appeals."[3]

To which respondent Judge replied thus: "But Mayor Tranquilino Calo, Jr., has already charged me with the same crime of immorality in another administrative case which has been investigated by Justice Villasor and this is but a rehash of the same charge. I have filed a motion to dismiss in that administrative case, where the witnesses are the same Loreta and Bernardita Ederango being presented here."[4] When Attorney Calo, Jr. was asked whether that was true, this is his answer: "That is true, Your Honor."[5] Justice German then continued: "Meaning there is a duplication of the complaint or the same grounds and the witnesses are the same on the same incidents?"[6] The response of Attorney Calo Jr. was: "The same witnesses, Your Honor." [7] This comment was therefore made by Justice

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[2] T.s.n., Session of March 26, 1979, 3.

[3] *Ibid*, 4.

[4] *Ibid.*

[5] *Ibid.*

[6] *Ibid.*

[7] *Ibid*, 5.

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German: "The same witnesses. Then there does appear a duplication ***."[8]

She followed with this pertinent question from her: "Do I understand from you, Atty. Calo, that you have filed complaint for immorality amounting to serious misconduct against Judge Tapucar of the CFI of Agusan del Norte?"[9] The reply from Attorney Calo Jr.: "That is correct, Your Honor."[10] Again, from Justice German: "As stated in the affidavit here subscribed and sworn by Bernardita Ederango?"[11] Attorney Calo's answer: "That is correct, Your Honor."[12] She was quite thorough. She pursued the matter thus: "And for facts comprising what dates?"[13] Attorney Calo made the commendable admission: "The same dates."[14] From Justice German: "The same dates *** because I was thinking you might have charged Judge Tapucar using the same facts but on different dates than those in the administrative case before Justice Villasor. So on the same facts, on the same dates in the same affidavits?" [15] This admission by Attorney Calo: "Yes, Your Honor."[16] Another relevant question from Justice German: "What's the status of that case before Justice Villasor?"[17] To which, Attorney Calo answered: "I had rested my case, and Judge Tapucar filed a motion to dismiss."[18] When it was admitted by counsel for complainant that there was "no resolution yet," [19] respondent Judge moved "to dismiss

[8] *Ibid.*

[9] *Ibid.*

[10] *Ibid.*

[11] *Ibid.*

[12] *Ibid.*

[13] *Ibid.*

[14] *Ibid.*

[15] *Ibid.*

[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid*, 6.

[19] *Ibid.*

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the instant case [on the ground that] there is no evidence to sustain it."[20]

On April 4, 1979, the report and recommendation of Justice German was submitted to this Court. Insofar as pertinent, it reads thus: "As indicated, both parties, assisted by counsel appeared on March 26, 1979 at 2:00 o'clock in the afternoon in the chambers of the undersigned behind closed doors. It appears that this complaint is a duplication of the very same complaint for immorality against the herein respondent which the complainant with Mayor Tranquilino Calo, Jr. as counsel, filed with the Supreme Court, docketed as Administrative Case No. 1740 which Justice Guillermo Villasor of this Court is currently investigating. During the hearing, complainant's counsel admitted that this complaint is the very same complaint lodged against the same respondent. *** Further clarified by the investigator if the acts complained of covered the same date or dates against the said respondent, complainant's counsel admitted that they are exactly the same ***. At this writing, complainant has rested her case, while respondent Judge has filed a motion to dismiss the complain for lack of merit. A happy-to-note revelation is that the herein respondent has voluntarily inhibited himself from hearing the criminal case filed by complainant Ederango for libel, No. 765 CFI, Butuan City which I pointed out in my letter to Director Buena on February 27 (3rd paragraph) in fairness to Ederango. *Recommendation*: In view of this development, the dismissal of this complaint is strongly recommended, it being a repetition, if not a reiteration, of the very same complaint against the same respondent covering the same dates, with the same witnesses, and for the same offense of immorality."[21]

The recommendation for the dismissal of this administrative case must be accepted. Justice German is to be commended for the thoroughness of her investigation, resulting in her eliciting the admission indicative of the impropriety of the conduct of

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[20] *Ibid.*

[21] Report on the Investigation and Recommendation, March 30, 1979, 2-3.

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Attorney Tranquilino O. Calo, Jr. A member of the bar intent on preserving his good standing should exercise greater care in filing an administrative complaint, knowing fully well that there was a previous identical complaint. The only difference between Administrative Case No. 1740 against the same respondent Judge pending investigation by Justice Guillermo Villasor of the Court of Appeals is that outside of the charge of immorality, other charges were included, such as serious misconduct, gross ignorance of the law, violation of the Anti-Graft and Corrupt Practices Act, as well as the Rules of Court and the Constitution either delaying rendering judgment or rendering judgment through negligence and ignorance. For good measure, the accusation of disrespect to the President of the Philippines was included. As pointed out by respondent Judge in his motion to dismiss before this Court, except for the charge of immorality, no witnesses whatsoever were presented to substantiate the other alleged grounds for disciplinary action. Precisely, the matter was referred to an investigating Justice of the Court of Appeals to ascertain whether such an allegation in the motion to dismiss is justified. The question remains open, the report of Justice Villasor being awaited. The ruling of the Court is therefore limited to the dismissal of this complaint for immorality against respondent Judge in accordance with the recommendation of Justice German.

WHEREFORE, this administrative complaint is dismissed. Attorney Tranquilino O. Calo, Jr. is censured for the impropriety committed by him and for disrespect to this Court when he filed a later complaint for the very same ground included in a previous administrative complaint against respondent Judge. Let this resolution be entered on the records of both respondent Judge Lauro L. Tapucar and Attorney Tranquilino O. Calo, Jr.

Antonio (Actg. Chairman), Concepcion, Jr., and *Santos, JJ.*, concur.

Aquino, J., concurs in the result.

Abad Santos, J., took no part.

Barredo, J., on leave.