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Juan. The transfer of the case was caused by retirement or resignation from office, and it was not at all a whimsical or deliberate move to delay complainant's case. In the absence of proof that it was malicious, we find no basis for holding that the reassignment of the case was made in bad faith much less in contempt of this Court.

WHEREFORE, complainant's motion for reconsideration of the resolution of the Integrated Bar of the Philippines dismissing his complaint against respondent Atty. Daniel P. Fandiño, Jr. and complainant's motion for contempt against IBP Commissioner Benjamin Bernardino are *DENIED* for lack of merit.

SO ORDERED.

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

EN BANC

[A.M. No. RTJ-99-1432. June 21, 2000]

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **JUDGE LORENZO B. VENERACION, and Branch Clerk of Court ROGELIO M. LINATOC, both of the REGIONAL TRIAL COURT, Branch 47, MANILA,** *respondents.*

SYNOPSIS

A certain Merlinia C. Santos filed with the Court Administrator a sworn letter-complaint against Rogelio A. Tria, "Acting Sheriff IV, Branch 47, Regional Trial Court, Manila," which assailed the acts of "Sheriff" Tria in the implementation of a writ of execution in a civil case for support. On the basis of the letter, the Court Administrator ordered an investigation of the status of "sheriff"

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Tria of RTC, Manila, Branch 47. The investigation revealed that "sheriff" Tria was not an employee of the judiciary at the time he acted as "sheriff" in Civil Case No. 97-84356 but was already an employee of the Economic Intelligence and Investigation Bureau (EIIB), Department of Finance, as an Intelligence Officer. The Court Administrator concluded that Judge Veneracion and Branch Clerk of Court Rogelio M. Linatoc had knowledge of the irregularity. The Court Administrator recommended that the memorandum report be considered as an administrative complaint against Judge Lorenzo B. Veneracion for grave misconduct and violation of Canon 3, Rule 3.08 of the Canons of Judicial Ethics, and against Atty. Rogelio M. Linatoc for grave misconduct. The Court adopted a resolution considering the memorandum as an administrative complaint against Judge Veneracion and Atty. Linatoc and referred the case to Court of Appeals Justice Remedios A. Salazar-Fernando for investigation, report and recommendation. After an investigation, Justice Fernando found respondents guilty of grave misconduct applying the doctrine of *res ipsa loquitur,* and recommended that respondents, Judge Lorenzo Veneracion and Branch Clerk of Court Atty. Rogelio Linatoc be dismissed from the service with forfeiture of all benefits and with prejudice to re-employment with any other branch, instrumentality or agency of the government, including government-owned and controlled corporations.

The Supreme Court adopted the factual findings and conclusions of Justice Fernando in her report. However, as regards the penalty, the Court, after due consideration, tempered the severity of the recommended dismissal of respondent judge considering his long service in the government. As to respondent Atty. Linatoc, the Court considered his dismissal from the service as too harsh a penalty. His fault was in following blindly the orders of the respondent judge, even though these violated the Constitution and circulars of the Supreme Court. The Court also stressed that judges are bound by limitations on their authority, by substantive and procedural rules of law, more importantly by constitutional precepts and the recognition of their places in the hierarchy of courts. Judge Veneracion's outright disregard of the well-established separation of powers of the three great departments of government and his exercise of powers beyond his judicial competence and in defiance of directives of the Supreme Court undermined the independence of the judiciary, Judge Veneracion can not hide behind the authorizations issued by officials of the executive branch of the

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government, giving an impression of legality of his actions. Judge Veneracion was suspended for three (3) months without pay and allowances and, in addition, to pay a fine of Fifty Thousand Pesos (₱50,000.00). His application for optional retirement was approved, effective immediately after serving the suspension, without prejudice to the result of his pending administrative case and the audit of his cases. Branch Clerk of Court Rogelio M. Linatoc was fined in the amount of Five Thousand (₱5,000.00) Pesos with warning that repetition of the same or similar acts would be dealt with more severely.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES ARE BOUND BY LIMITATIONS ON THEIR AUTHORITY, BY SUBSTANTIVE AND PROCEDURAL RULES OF LAW, MORE IMPORTANTLY BY CONSTITUTIONAL PRECEPTS AND RECOGNIZING THEIR PLACES IN THE HIERARCHY OF COURTS; RESPONDENT'S EXERCISE OF POWERS BEYOND HIS JUDICIAL COMPETENCE AND IN DEFIANCE OF DIRECTIVES OF THE COURT UNDERMINED THE INDEPENDENCE OF THE JUDICIARY.**— "The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety, not only with respect to the performance of his judicial duties but also to his behavior outside his sala and as a private individual." What is required of judges is objectivity. An independent judiciary does not mean that judges can innovate at pleasure, roaming at will in pursuit of their own ideals of beauty or of goodness. They are bound by limitations on their authority, by substantive and procedural rules of law, more importantly by Constitutional precepts and the recognition of their places in the hierarchy of courts. Judge Veneracion's outright disregard of the well-established separation of powers of the three great departments of government and his exercise of powers beyond his judicial competence and in defiance of directives of the Supreme Court undermined the independence of the judiciary. Judge Veneracion can not hide behind the authorizations issued by officials of the executive branch of the government, giving an impression of legality of his actions. Administrative Circular No. 12, dated October 1, 1985, and

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Administrative Circular No. 7, dated April 27, 1987 clearly provide for the implementation of the Supreme Court's Constitutional power of appointment of judiciary employees, including sheriffs and the assignment of acting deputy sheriffs to the courts. Judge Veneracion repeatedly violated, nay defied, these circulars.

2. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; BRANCH CLERK OF COURT LIABLE FOR MISCONDUCT IN ALLOWING THE ASSIGNMENT OF A NON-JUDICIAL EMPLOYEE TO THEIR SALA; AS A BRANCH CLERK, HE HAS ADMINISTRATIVE SUPERVISION OVER ALL OTHER EMPLOYEES OF THE COURT AND OUGHT TO KNOW THAT A NON-JUDICIAL PERSON HAS NO PLACE IN THE JUDICIAL SERVICE.**— As regards Branch Clerk of Court Rogelio M. Linatoc, he is also guilty of misconduct in allowing the assignment of a non-judicial employee to the staff of the Regional Trial Court, Branch 47, Manila. As Branch Clerk of Court, Atty. Linatoc has administrative supervision over all other employees of the court and ought to know that a non-judicial person has no place in the judicial service. His admission that he did not find any reason to report to the Supreme Court the presence of "Sheriff" Rogelio A. Tria in Branch 47 since the orders for his assignment came from Judge Veneracion showed gross ignorance of his role as branch clerk of court. He has the obligation to report to the Supreme Court anyone in his staff without proper appointment from the Supreme Court. As Branch Clerk of Court, Atty. Linatoc has control of the employment records of the court's staff. However, considering his lack of direct participation in the irregularity, we are inclined to be more lenient with him.

RESOLUTION

PARDO, *J.*:

The case before the Court is an administrative complaint against Judge Lorenzo B. Veneracion for grave misconduct and violation of Canon 3, Rule 3.08 of the Canons of Judicial Ethics, and Branch Clerk of Court Rogelio M. Linatoc, for grave misconduct, both of

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the Regional Trial Court, Branch 47, Manila, initiated by the Court Administrator.[1]

On November 24, 1998, Merlinia C. Santos filed with the Court Administrator, a sworn letter-complaint[2] against Rogelio A. Tria, "Acting Sheriff IV, Branch 47, Regional Trial Court, Manila," assailing the acts of "Sheriff" Tria in the implementation of a writ of execution in a civil case for support.[3]

On the basis of the letter, on January 15, 1999, Court Administrator Alfredo L. Benipayo ordered an investigation of the status of "sheriff" Tria of RTC, Manila, Branch 47. The investigation revealed that "sheriff" Tria was not an employee of the judiciary at the time he acted as "sheriff" in Civil Case No. 97-84356. The record showed that on August 9, 1988, Mr. Rogelio A. Tria was appointed process server of the Regional Trial Court, Branch 47, Manila. However, on January 1, 1995, he transferred to the Economic Intelligence and Investigation Bureau (EIIB), Department of Finance, as an Intelligence Officer. He was not thereafter re-employed in the judiciary.[4]

The investigation disclosed the following facts:

"1. that the writ of execution dated July 3, 1998 was signed by Judge Lorenzo B. Veneracion addressed to Mr. Rogelio A. Tria as Acting Sheriff IV;

"2. that the Sheriff's Return dated July 30, 1998 was signed by Mr. Rogelio A. Tria as Acting Sheriff IV; and

"3. that the Notice of Levy and Sale dated July 3, 1998 was signed by Mr. Tria as Acting Sheriff IV."

The investigation further disclosed that in 1985, Mr. Antonio Velasco was the duly appointed Deputy Sheriff IV of the Regional Trial Court, Branch 47, Manila. Subsequently, however, Judge

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[1] Resolution adopted on February 23, 1999, *Rollo*, p. 139.

[2] *Rollo*, pp. 146-149.

[3] Docketed as Civil Case No. 97-84356, RTC Manila, entitled *Merlinia Corpuz Santos, Daughters Kristine Dominique and Jenina Anne C. Santos v. Arthur C. Santos.*

[4] *Rollo*, p. 1.

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Veneracion assigned Deputy Sheriff IV Antonio Velasco to the Office of the Clerk of Court in order that Rogelio A. Tria, who was not an employee of the judiciary, could be designated to perform the functions of "Acting Deputy Sheriff IV" considering the position vacant and authorized to carry out the writ of execution in Civil Case No. 97-84356. This irregularity was not limited to Civil Case No. 97-84356, or to the period July to August 1998. The Court Administrator concluded that Judge Veneracion and Branch Clerk of Court Rogelio M. Linatoc had knowledge of the irregularity.[5]

Meantime, Justice Benipayo directed Judge Veneracion to desist from assigning any task to "Sheriff" Rogelio A. Tria and to prevent him from holding office in his sala. On January 18, 1999 Judge Veneracion ordered Rogelio A. Tria to return to his post at the EIIB.[6]

On January 29, 1999, Court Administrator Benipayo recommended that the memorandum report be considered as an administrative complaint against Judge Lorenzo B. Veneracion for grave misconduct and violation of Canon 3, Rule 3.08 of the Canons of Judicial Ethics and against Atty. Rogelio M. Linatoc for grave misconduct.[7]

On February 23, 1999, the Court adopted a resolution considering the memorandum as an administrative complaint against Judge Veneracion and Atty. Linatoc, and directing them to file their respective answers thereto within ten (10) days from notice.[8]

On June 22, 1999, the Court referred the case to Court of Appeals Justice Remedios A. Salazar-Fernando for investigation, report and recommendation within sixty (60) days from receipt of the records.[9]

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[5] *Rollo*, pp. 1-2.

[6] *Ibid.*, p. 137.

[7] *Rollo*, pp. 2-3.

[8] *Ibid.*, p. 139.

[9] *Ibid.*, p. 153.

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On August 16, 1999, Judge Veneracion filed an answer,[10] contending that there was nothing irregular about a judge signing a writ of execution, considering that it had been his practice as a matter of court policy. He professed good faith in detailing Mr. Rogelio A. Tria, an employee of the EIIB with the Regional Trial Court, Branch 47, Manila and his designation as "Acting Deputy Sheriff" assigned to serve writs of execution in cases therein, properly supported by documents. The latest authority for the detail was issued on October 5, 1998, by Executive Secretary Ronaldo B. Zamora, to Col. Wilfred A. Nicolas, Commissioner, EIIB, recommending approval of Mr. Tria's detail with Branch 47, as requested by retired Supreme Court Justice Emilio A. Gancayco.[11]

Also on August 16, 1999, Atty. Linatoc filed an answer[12] denying involvement in any anomaly. He averred that there was nothing anomalous with the issuance of a writ of execution signed by a presiding judge. He denied participation in the temporary detail of Mr. Rogelio A. Tria with the Regional Trial Court, Branch 47, Manila as "Acting Deputy Sheriff IV." At the same time, he expressed good faith in believing that "Sheriff" Tria's appointment was legal since it was supported by various documents authorizing his detail with the Regional Trial Court, Branch 47, Manila.

According to the investigation conducted by Justice Fernando, on January 1, 1995, Rogelio A. Tria was employed with EIIB, an agency under the Department of Finance. However, from January 2, 1995 to June 30, 1995[13] and January 1, 1997 to June 30, 1997,[14] Tria was detailed with the Regional Trial Court, Branch 47, Manila as Acting Deputy Sheriff IV, upon the request of Judge Veneracion. From January 1, 1998 to April 22, 1998,[15] Rogelio A. Tria was

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[10] *Ibid.*, pp. 207-220.

[11] *Rollo*, p. 213.

[12] *Rollo*, pp. 156-172.

[13] As authorized by LO-1-205-95.

[14] As authorized by LO-12-177-96.

[15] As authorized by LO-12-277-97.

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detailed with Branch 47, at the request of former Justice Emilio A. Gancayco.

It will be noticed, however, that when "sheriff" Tria implemented the writ of execution in Civil Case No. 97-84356 on July 3, 1998, he had no appointment or designation authorizing his assignment as "Acting Deputy Sheriff IV" of the Regional Trial Court, Branch 47, Manila. Nor was he a duly bonded official.

On August 13, 1998, Judge Veneracion requested EIIB Commissioner Colonel Wilfred Nicolas for Mr. Rogelio A. Tria's assignment as Deputy Sheriff of Branch 47.[16] On August 25, 1998, Colonel Lara *denied* the request.[17] Nonetheless, respondent Judge Veneracion assigned "sheriff" Tria to execute writs in cases therein.

The question is whether an employee of EIIB, an agency under the Department of Finance, of the executive branch of the government, may be assigned by that agency on detail with the judiciary, specifically to the Regional Trial Court, Branch 47, Manila, as deputy sheriff, upon the request of the presiding judge of the court without the authority of the Supreme Court.

Judge Veneracion's repeated requests for Mr. Rogelio A. Tria's detail with the Regional Trial Court, Branch 47, Manila, as Acting Deputy Sheriff IV, a position that was not vacant, contravened Article VIII, Section 5 (6) of the Constitution, Supreme Court Administrative Circular No. 07 dated August 27, 1987, re: appointments to vacant positions in the judiciary, and Supreme Court Administrative Circular No. 12, dated October 1, 1985, addressed to all judges and clerks of court of the Regional Trial Courts, prescribing guidelines and procedure in the service and execution of court writs and processes. Administrative Circular No. 12 provides that "in the absence of deputy sheriff appointed and assigned in his sala" the judge may at any time designate any of the deputy sheriffs in the office of the clerk of court. However, the judge shall not be allowed to designate the deputy sheriff of

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[16] *Rollo*, p. 256.

[17] *Ibid.*, p. 258.

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another branch without first securing the consent of the presiding judge thereof. Judge Veneracion failed to observe the Constitutional and regulatory prescriptions. Judge Veneracion had no power to assign on temporary detail his duly appointed sheriff to the office of the clerk of court. The authority to detail employees of his branch to the office of the clerk of court is vested in the executive judge.[18] Hence, there was no vacancy even temporarily in the office of branch sheriff of Branch 47, and the judge can not appoint or designate any person of his choice to act as sheriff. His action showed persistent disregard of the rule in the designation of acting sheriffs. This act constitutes usurpation of the appointing authority of the Supreme Court amounting to grave misconduct in office. As a member of the bench, Judge Veneracion is conclusively presumed to know the law and is "expected to keep abreast of all laws and prevailing jurisprudence"[19] which he clearly failed to do in this instance. It was not a matter of negligence, but a deliberate act of defiance of the Supreme Court's authority by a lower court judge. Judge Veneracion did not observe the Constitutional and regulatory prescriptions. He persistently disregarded well-known legal rules in the designation of acting sheriffs. By such action, he repeatedly usurped the appointing authority of the Supreme Court. Thus, it amounts to grave misconduct in office. In fact, since 1989, Judge Veneracion has made repeated requests for the detail of Mr. Tria to his court. He even made further request for the detail of "sheriff" Tria from the EIIB after the head of the EIIB had denied such request. Judge Veneracion appealed the denial to the Executive Secretary, and even asked the help of a retired Supreme Court justice to effectuate his appeal. And what triggered the complaint at bar against respondent Judge Veneracion was an act of corruption by "Acting Deputy Sheriff IV" Rogelio A. Tria in the enforcement of a writ of execution that Judge Veneracion assigned directly to him. He personally signed the writ of execution, a function normally delegated to the branch clerk of court. Worse, Judge Veneracion did not even require "sheriff" Tria *to post a sheriff's bond, as required by law.* "Sheriff" Tria demanded ₱250.00

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[18] See Adm. Order No. 6, dated June 30, 1975.

[19] *Carpio v. de Guzman*, 262 SCRA 615, 622 [1996].

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from the prevailing party for his *taxi fare* from his residence in Antipolo to Manila, RTC.[20]

Atty. Linatoc, as Branch Clerk of Court is likewise liable for misconduct in office for following the unlawful orders of Judge Veneracion regarding Mr. Rogelio A. Tria's assignment as "Deputy Sheriff" of the Regional Trial Court, Branch 47, Manila without the authority of the Supreme Court.

On October 14, 1999, Justice Fernando submitted her final report and recommendation, disposing as follows:

"*IN VIEW OF THE FOREGOING*, it is respectfully submitted that the respondents are guilty of grave misconduct applying the doctrine of *res ipsa loquitur,* i.e., that the Court may impose its authority upon erring judges and other court personnel whose actuations, on their face, would show gross incompetence, ignorance of the law, or misconduct.

"*WHEREFORE*, it is respectfully recommended that respondents, Judge Lorenzo Veneracion and Branch Clerk of Court Atty. Rogelio Linatoc be dismissed from the service with forfeiture of all benefits and with prejudice to re-employment with any other branch, instrumentality or agency of the government, including government-owned and controlled corporations."[21]

We agree with the factual findings and conclusions of Justice Fernando in her report. However, as regards the penalty, the Court after due consideration, tempers the severity of the recommended dismissal of respondent judge considering his long service in the government and the judiciary[22] and his obedience to the order of the Court Administrator directing him to terminate the questioned designation of "sheriff" Tria, thus, evincing remorse and repentance for his unauthorized acts.

As to respondent Atty. Linatoc, we consider his dismissal from the service as too harsh a penalty. His fault was in following blindly the orders of the respondent judge, even though these violated the Constitution and circulars of the Supreme Court.

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[20] *Rollo*, p. 146.

[21] *Rollo,* pp. 400-418.

[22] *In re: Judge Baltazar R. Dizon*, 173 SCRA 719, 722-723 [1989]; Cf. *State Prosecutors v. Muro,* 251 SCRA 111, 116-117 [1995].

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"The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety, not only with respect to the performance of his judicial duties but also to his behavior outside his sala and as a private individual."[23]

What is required of judges is objectivity. An independent judiciary does not mean that judges can innovate at pleasure, roaming at will in pursuit of their own ideals of beauty or of goodness.[24] They are bound by limitations on their authority, by substantive and procedural rules of law, more importantly by Constitutional precepts and the recognition of their places in the hierarchy of courts.

Judge Veneracion's outright disregard of the well-established separation of powers of the three great departments of government and his exercise of powers beyond his judicial competence and in defiance of directives of the Supreme Court undermined the independence of the judiciary Judge Veneracion can not hide behind the authorizations issued by officials of the executive branch of the government, giving an impression of legality of his actions. Administrative Circular No. 12, dated October 1, 1985, and Administrative Circular No. 7, dated April 27, 1987 clearly provide for the implementation of the Supreme Court's Constitutional power of appointment of judiciary employees, including sheriffs and the assignment of acting deputy sheriffs to the courts. Judge Veneracion repeatedly violated, nay defied, these circulars.

Finally, it is pertinent to state that on March 11, 1997, the Court found Judge Veneracion guilty of gross ignorance of the law and imposed on him a fine of ₱10,000.00 for disregarding a complainant's right to procedural due process *with warning that the commission of the same or similar infraction shall be dealt with more severely*.[25]

On another tack, on June 2, 2000, as this administrative case

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[23] *Imbing v. Tiongson*, 229 SCRA 690, 697 [1994]; *Magarang v. Jardin, Jr.*, A.M. RTJ-99-1448, April 6, 2000; *Concerned Employees of the RTC of Dagupan City v. Judge Erna Falloran-Aliposa*, A.M. No. RTC-99-1446, March 9, 2000.

[24] *State Prosecutors v. Muro, supra,* Note 23, at p. 118.

[25] *Parada v. Judge Veneracion*, 269 SCRA 371 [1997].

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was pending resolution after the submission of the report and recommendation of the investigating justice, Judge Lorenzo B. Veneracion applied for optional retirement under Republic Act No. 910, as amended, effective July 1, 2000. However, he failed to submit supporting papers such as his service record, an inventory of pending cases particularly those pending decision, and the required clearances. In fact, he has a pending case with the Ombudsman. His monthly report of cases, the latest of which was for February, 2000, did not indicate his pending undecided cases, if any. As of February 29, 2000, he has 1,145 pending civil and criminal cases including 231 cases with prisoners (meaning that the accused are under detention).

As regards Branch Clerk of Court Rogelio M. Linatoc, he is also guilty of misconduct in allowing the assignment of a non-judicial employee to the staff of the Regional Trial Court, Branch 47, Manila. As Branch Clerk of Court, Atty. Linatoc has administrative supervision over all other employees of the court[26] and ought to know that a non-judicial person has no place in the judicial service. His admission that he did not find any reason to report to the Supreme Court the presence of "Sheriff" Rogelio A. Tria in Branch 47 since the orders for his assignment came from Judge Veneracion showed gross ignorance of his role as branch clerk of court. He has the obligation to report to the Supreme Court anyone in his staff without proper appointment from the Supreme Court. As Branch Clerk of Court, Atty. Linatoc has control of the employment records of the court's staff. However, considering his lack of direct participation in the irregularity, we are inclined to be more lenient with him.

WHEREFORE, the Court finds Judge Lorenzo B. Veneracion, Presiding Judge, Regional Trial Court, Branch 47, Manila guilty of grave misconduct in office and hereby orders his *SUSPENSION* from office for a period of three (3) months, without pay and allowances, effective immediately, and, in addition, to pay a fine of Fifty Thousand Pesos (₱50,000.00).

The Court orders Judge Veneracion to cease and desist immediately from rendering judgment, or issuing resolution or

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[26] *Cruz v. Tantay*, 395 SCRA 128 [1999].

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order in any pending case or continuing with any judicial action or proceeding whatsoever, effective upon notice of this resolution.

His application for optional retirement under Republic Act No. 910, as amended, is hereby APPROVED, effective immediately after serving the suspension, subject to availability of funds and the usual auditing and accounting requirements and submission of proper clearances, without prejudice to the result of the administrative case pending with the Ombudsman, and the audit of the cases pending with the Regional Trial Court, Manila, Branch 47, particularly those submitted for decision, if any.

The Court finds Branch Clerk of Court Rogelio M. Linatoc guilty of simple misconduct in office, and hereby imposes upon him a fine of Five Thousand (₱5,000.00) Pesos, payable immediately, with warning that repetition of the same or similar acts would be dealt with more severely.

This resolution is immediately executory upon receipt.

SO ORDERED.

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

Vitug, J., on official business abroad.

FIRST DIVISION

[G.R. No. 108397. June 21, 2000]

FOOD TERMINAL INCORPORATED, *petitioner, vs.* **COURT OF APPEALS AND BASIC FOODS CORPORATION,** *respondents.*

SYNOPSIS

Private respondent Basic Foods Corporation filed a case for damages against petitioner Food Terminal Incorporated. Private