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FIRST DIVISION

[A.M. No. 491-MJ. October 30, 1980]

PRIMITIVO SANTOS, *ET AL.*, *petitioners, vs.* MUNICIPAL JUDGE ARTURO E. CRUZ, *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE LIABILITIES; CONDUCT UNBECOMING A JUDGE; CASE AT BAR.— The transcript of the stenographic notes shows that during the formal investigation conducted on February 9, 1973 the respondent judge, while cross-examining the witness, Alberto T. Cano, lost his temper and said: "You can go to hell I don't care or where do you want to go Mr. Cano." This language of the Judge is unbecoming of a municipal judge and deserves administrative penalty. The respondent Judge is hereby EXONERATED of the charge of partiality but is found guilty of conduct unbecoming a judge by uttering intemperate language during the trial of the case. The respondent judge is hereby imposed a penalty of a fine equivalent to one (1) month salary and warned that a repetition of the same or similar offense shall be dealt with more severely.

D E C I S I O N

FERNANDEZ, *J.*:

In a sworn-letter complaint dated November 16, 1972, addressed to the then Secretary of Justice, the complainant, Primitivo Santos charged Municipal Judge Arturo E. Cruz of the Municipal Court of Bulacan with partiality and conduct unbecoming a judge for having intervened with and/or prevented the complainant in filing cases in the Municipal Court of Bulacan.[1]

The then Secretary of Justice referred to Municipal Judge Arturo E. Cruz the complaint of Primitivo Santos for immediate comment.[2]

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[1] *Rollo*, pp. 34-35.

[2] *Rollo*, p. 36.

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In his comment dated November 22, 1972, the respondent Judge denied the charges.[3]

The complaint was referred to the Executive District Judge of the Court of First Instance of Bulacan at Malolos for investigation, report and recommendation.[4]

In her Report dated August 23, 1973, District Judge Floreliana Castro-Bartolome made the following findings:

"The complaint of Primitivo Santos, therefore, was the only one that stood for hearing.

"On the first paragraph of the letter-complaint, it was adduced by the testimony of Roberto G. Garcia, a police corporal of Bulacan, Bulacan, who brought the police blotter subpoenaed for containing the following entry:

> 'June 1, 1972. — *Sa ganap na ika-10 ng umaga ay nagsadya sa himpilan si Gng. Leonila Rodriguez-Santos at ipinagsumbong si Teresita Cruz sa ginawang pagmumura at pagsasara ng daanan sa kusina ng kanilang tindahan. Nagbigay ng kusang loob na pahayag si Leonila Santos kay... Walang saksi naiharap si Gng. Santos kaya pinagpayuhang magbalik at kailangan din ang pahayag ng saksi.*' (two charges: slander & closing of the '*daan*').

that as a standard operating procedure, he gave the statement to his Chief and no other entry shows that the complainant returned to the Police Headquarters. Judge Cruz is here wrongfully blamed for the failure of its filing, as the portion where a complainant's *jurat* should be, was not signed by Judge Cruz, but complainant Primitivo Santos could not state that his wife ever appeared before Judge Cruz to execute the oath nor was any evidence presented that the same was ever forwarded to Judge Cruz. The latter seems to be blamed for a failure which was not of his own making and no evidence appears that Judge Cruz 'had moved heaven and earth to prevent the filing of aforesaid offenses in the Municipal Court of Bulacan.

"On the sixth paragraph of the letter complaint, the only testimony of Primitivo Santos on which his suspicion that Judge Cruz was

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[3] *Rollo*, pp. 41-42.

[4] *Rollo*, p. 25.

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interfering with a criminal case filed by Teresita Cruz was he saw Judge Cruz enter the room where an investigation was being conducted in a case between him and Teresita Cruz and the latter was saying: '*Hindi totoo 'yan, nandyan sa labas si* Judge Cruz,' and when he looked, Judge Cruz was there. Yet, the case was admittedly dismissed upon the complainant's instance. Primitivo Santos believed that the case being investigated by the Fiscal's Office would also fall within the jurisdiction of the Municipal Court of Bulacan where Judge Cruz presides and so he mistakenly believed that Judge Cruz's presence amounted to following up the case.

"The last paragraph containing the last ground for the complaint is trivial and does not need further comment. The testimony of Primitivo Santos has failed to confirm that Judge Cruz ever said the words complained of: '*BAKIT, UTUSAN MO BA KAMI RITO SA JUZGADO*!' but admitted that he signed the pleading to undertake service on his lawyer.

"The letter-complaint asks that Judge Cruz voluntarily inhibit himself from trying Civil Case No. 250 and allow another judge to hear it, and Judge Cruz suspended the proceedings."[5]

A careful review of the records of this case shows that the investigating Judge correctly found that the complainant was not able to prove the charges of partiality and conduct unbecoming a judge.

However, the transcript of the stenographic notes shows that during the formal investigation conducted on February 9, 1973[6] the respondent judge, while cross-examining the witness, Alberto T. Cano, lost his temper and said: "You can go to hell I don't care or where do you want to go Mr. Cano." This language of the Judge is unbecoming of a municipal judge and deserves administrative penalty.

WHEREFORE, the respondent Judge is hereby EXONERATED of the charge of partiality but is found guilty of conduct unbecoming a judge by uttering intemperate language during the trial of the case. The respondent judge is hereby

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[5] *Rollo*, pp. 9-10.

[6] *Rollo*, p. 234.

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imposed a penalty of a fine equivalent to one (1) month salary and warned that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Teehankee, Acting C.J., Makasiar, Guerrero, and *Melencio-Herrera, JJ.,* concur.

FIRST DIVISION

[A.M. No. 2356-CTJ. October 30, 1980]

THE PHILIPPINE TRIAL LAWYERS ASSOCIATION, INC., *complainant, vs.* **SIMEON I. GARCIA,** *respondent.*

SYLLABUS

LEGAL AND JUDICIAL ETHICS; JUDGES; ADMINISTRATIVE LIABILITIES; GROSS NEGLIGENCE; COMMITTED IN CASE AT BAR. — But what concerns Us most is the admitted failure of the respondent judge in retrieving or locating the records of the aforestated civil case for quite a long period of time. Apparently, such failure bespeaks of respondent's gross negligence, if not gross irresponsibility, in exercising his official duties.

D E C I S I O N

MAKASIAR, *J.*:

In a formal complaint dated December 6, 1979 and filed on December 26, 1979, the complainant, The Philippine Trial Lawyers Association, Inc., through its President, Procopio S. Beltran,