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three (3) months of *prision correccional* minimum, as maximum. Jaime Saldua is sentenced to a penalty of three months of *arresto mayor* medium. The appellants are not liable for any indemnity because the two cases of corned beef were recovered.

Inasmuch as the two appellants had already served preventive imprisonment of several years, the sentences imposed herein are deemed to have been fully served (*People vs. Magonawal,* L-35783, March 12, 1975, 63 SCRA 106, 113). Their immediate release is ordered unless they may be justifiably detained for other offenses. Costs *de officio.*

SO ORDERED.

Fernando (Chairman) Barredo, Antonio, Concepcion Jr., and *Santos, JJ.,* concurs.

EN BANC

[A.M. No. 595-CFI. December 11, 1978]

QUINTIN STA. MARIA, *complainant, vs.* **HON. ALBERTO UBAY,** *respondent.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENTS; RENDITION; FILING OF SIGNED DECISION WITH CLERK OF COURT CONSTITUTES RENDITION.** — It is the filing of the signed decision with the clerk of court and not the promulgation thereof the constitutes rendition. Hence, the three-month period provided in the 1973 Constitution was sufficiently complied with where the signed decision was filed with clerk of court within, although promulgated beyond, the said period.

2. **ID.; ID.; INHERENT POWER OF COURT TO CORRECT ERRORS WHILE JUDGMENT STILL UNDER ITS CONTROL.** — There

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can be no valid objection to the suspension of the promulgation of a decision upon instructions of the judge "in order that certain aspect of said decision may still be mulled over." Court have the inherent power to amend and control their processes and orders so as to make them conformable to law and justice. To deprive the judge of power to amend his own judgment to make it conformable to law and justice, before the expiration of the statutory period of appeal, would limit his power without authority of statute, in disregard of sound rules of practice and in violation of the provisions of the Rules of Court.

3. **ID.; ID.; ID.; KNOWINGLY RENDERING AN UNJUST JUDGMENT; WHEN COMMITTED.** — In order that a judge may be held liable for knowingly rendering an unjust judgment it must be shown beyond doubt that the judgment is unjust in the sense that it is contrary to law or is not supported by the evidence, and that the same was made with conscious and deliberate intent to do an injustice.

4. **ID.; ID.; ID.; SUPREME COURT WILL NOT PASS UPON A CHARGE OF "KNOWINGLY RENDERING AN UNJUST DECISION" WHERE DECISION IS STILL PENDING APPEAL BEFORE THE COURT OF APPEALS.** — To determine whether or not the decision of a judge constitutes an unjust judgment would involved more than a mere cursory reading of the decision itself or its comparison with the Supreme Court's decision invoked by the complainant. To delve into the different factors bearing on the issue rendered by the respondent Judge in arriving at his conclusion set forth in the decision in question for purposes of ascertaining the factual, legal and jurisprudential basis of the said decision, would be tantamount to pre-empting the Court of Appeals of its appellate jurisdiction over the case considering that the same is pending before it. Only after the appellate court holds in a final judgment that a trial judge's alleged errors were committed deliberately and in bad faith may a charge of knowingly rendering an unjust decision be leveled against a trial judge. For, through an appeal, an aggrieved party can always point out, for rectification by the appellate court, the errors in the alleged unjust judgment effecting him.

5. **ID.; ID.; ID.; EVIDENCE OF BAD FAITH.** — To hold a judge liable for knowingly rendering an unjust decision, the rule requires that the judgment should be rendered by the judge with

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conscious and deliberate intent to do an injustice. Absent any positive evidence on the record that the respondent Judge rendered the judgment in question with conscious and deliberate intent to do an injustice, the charge must fail.

6. **ADMINISTRATIVE LAW; COURT PERSONNEL; DEPUTY CLERK OF COURT; LIABILITY OF DEPUTY CLERK FOR FAILURE TO EXERCISE PROPER SUPERVISION OVER SUBORDINATE.** — Even if the loss or misplacement of a pleading may be attributed to a subordinate court employee charged with the task of receiving pleadings, the deputy clerk of court cannot be fully exonerated, nor be held entirely blameless where he failed to exercise proper supervision over his subordinate.

7. **CRIMINAL LAW; ANTI-GRAFT AND CORRUPT PRACTICES; CHARGES MUST BE SUBSTANTIATED.** — An anti-graft charge deserves no serious consideration where the complainant not only has failed to allege with particularity and clarity the facts complained of as constituting the violation of the provisions of the Anti-graft Law, Anti-Graft and Corrupt Practices Act, Civil Service Law and tenets of the New Society, but also has failed to substantiate his ambiguous charge.

TEEHANKEE, *J., concurring:*

1. **REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; PERIOD FOR DISPOSITION NOT COMPLIED WHEN A JUDGE SIGNED A TENTATIVE JUDGMENT BUT WITHHOLD ITS PROMULGATION.** — It is not sufficient compliance for the trial judge to sign his tentative judgment and file it with his clerk within the three-month period with instructions to withhold the promulgation and service thereof "in order that certain aspects of the said decision may still be mulled over," *i.e.*, substantially altered, modified, reviewed or reversed and then after the expiration of the period and after he had finally made up his mind to have the same promulgated and released to the parties (or made the corresponding changes and revisions therein, as the case may be) to direct his clerk of court to cause the promulgation and service thereof to the parties.

2. **ID.; ID.; ID.; OPEN COURT PRONOUNCEMENT; NOT SUFFICIENT NOTICE TO PARTIES.** — The pronouncement

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of a judgment on a compromise in open court is not sufficient notice to the parties and the issuance of the writ of execution before such judgment is rendered by the judge's filing of his signed judgment with the clerk of court and the latter's service thereof upon the parties by personal service or registered mail (as required by the Rules of Court) is null and void.

3. **ID.; ID.; ID.; TENTATIVE JUDGMENT NOT A COMPLIANCE WITH THE THREE-MONTH DEADLINE FOR DECIDING CASES.** — A judge's signed judgment although filed with the clerk of court but with instructions to withhold release and service upon the parties being merely a tentative one and still subject to change and total modification by him, he may not thereby claim to have complied with the three-month deadline for deciding cases. The signed judgment must be filed unconditionally with the clerk of court within the said deadline, so that notice and copy thereof may forthwith be served upon the parties as required by the Rules of Court.

4. **JUDICIAL ETHICS; JUDGES; DELAY IN RENDITION OF JUDGMENT; WHEN COMMITTED.** — Where the respondent judge's delay in the rendition of judgment appears to be an isolated one and was not too much (a delay of 23 days), the same is not of sufficient gravity as to warrant withholding or forfeiting any part of the retirement benefits justly earned by respondent judge who has already reached the compulsory retirement age.

RESOLUTION

CASTRO, *C.J.:*

On October 15, 1973, Quintin R. Sta. Maria (hereinafter referred to as the complainant), attorney-in-fact of the defendant Valeriana R. Sta. Maria in Civil Case C-2052 of the Court of First Instance of Rizal, filed with the Supreme Court a letter-complaint against the Honorable Alberto Q. Ubay (hereinafter referred to as the respondent Judge), in whose sala the said case fell, imputing to the latter (1) violation of the provisions of subsection 1, Section 11 of Article X of the 1973 Constitution, in that he promulgated his decision in Civil Case C-2052 more than three months from the date of the submission of the case

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for decision; (2) violation of the provisions of Article 204 of the Revised Penal Code, in that he knowingly rendered an unjust judgment by promulgating a decision in Civil Case C-2052 contrary to the decisions of the Supreme Court in previous related proceedings involving the same parties and (3) falsification, by antedating his decision in Civil Case C-2052 in order to make it appear that he rendered the same within the statutory three-month period. The complainant also charges the respondent Judge with "putting every obstacle to the approval of the Record on Appeal [in Civil Case C-2052] in spite of lack of opposition duly filed on time."

Subsequently, in another letter-complaint dated November 15, 1973, the complainant charged Atty. Paz G. Palanca, Branch Clerk of Court of the respondent Judge's sala, with infidelity in the custody of judicial records and, likewise, with "putting all obstacles to the approval of the Record on Appeal" in Civil Case C-2052.[1] Then, the complainant, in response to a letter dated November 8, 1973 of the Assistant to the Judicial Consultant informing him that his charges could not be given due course unless sworn to, submitted an affidavit dated November 24, 1973 wherein he attested to the truth of the allegations in his previous letter-complaint. He also submitted documentary evidence to substantiate his allegations.

The letter-complaints were indorsed by the Assistant to the Judicial Consultant to the respondent Judge for comment. In compliance, the respondent Judge submitted his comments in a Second Indorsement dated January 16, 1974, with the following annexes: (1) a certification of Atty. Palanca that the respondent Judge filed with her office on July 14, 1973 the decision in Civil Case C-2052 "with instruction to withhold its promulgation until he could check on the questions involved in the case," and that the "said decision was promulgated on August 8, 1973, upon his order;" and (2) copies of the certificates of the

[1] Contrary to his allegation in the first paragraph of the letter-complaint dated November 15, 1973, the complainant made no mention whatsoever of Atty. Palanca or of her obstructing the approval of the Record on Appeal in Civil Case No. C-2052 in his letter-complaint dated October 15, 1973.

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respondent Judge as to work completed for the months of July and August, 1973. Atty. Palanca likewise submitted her comments on the second letter-complaint in a Third Indorsement dated January 17, 1974, with the affidavit of Juanito Alejo (an employee of the court *a quo* in charge of receiving pleadings relative to the circumstances surrounding the receipt of a pleading of the defendants in Civil Case C-2052, which pleading the complainant alleged Atty. Palanca lost or concealed, appended as an annex.

The complainant subsequently submitted two letters, both dated July 8, 1974, wherein he commented on the exculpatory explanations profferred by the respondent Judge and Atty. Palanca in their respective comments on his charges. In one of these letters, he charges Atty. Palanca, for the first time, with a violation of the provisions not only of the Anti-Graft Law (Republic Act No. 1379) or the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) but also of the Civil Service Law and the tenets of the New Society.

Parenthetically, the complainant, in both of the aforementioned letters, mentions that the Second Indorsement of the respondent Judge "is very much ante-dated" for, although it bears the date January 16, 1974, "it was actually filed with the Records Control Center of the Supreme Court on June 21, 1974," and that, in a similar vein. The Third Indorsement of Atty. Palanca, "[a]lthough it is dated January 17, 1974, . . . appears to have been filed on June 21, 1974 with the Records Control Center of the Supreme Court." Suffice it to state, simply to set the complainant aright, that the record shows January 18, 1974 as the definitive date of receipt by the Court of the respondent Judge's Second Indorsement commenting on the complainant's allegations as well of his Fourth Indorsement transmitting Atty. Palanca's Third Indorsement.

A careful reading of the allegations in the letter-complaints, the comments thereon, and the documents presented, makes it quite evident that the cumbersome time-consuming procedure of investigation need not be resorted to. The letter-complaints, the indorsements and the various documents — all part of the

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record — provide ample basis for a resolution of the complainant's charges against both the respondent Judge and Atty. Palanca.

I. The complainant predicates his first charge against the respondent Judge on the provisions of subsection 1, Section 11 of Article X of the 1973 Constitution, which subsection states:

"Section 11. (1) Upon the effectivity of this Constitution, the maximum period within which a case or matter shall be decided or resolved from the date of its submission, shall be eighteen months for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all inferior collegiate courts, and three months for all other inferior courts."

Anent the first recusation, the record reveals the following facts: Civil Case C-2052, then pending in the sala of the respondent Judge, was submitted for decision on April 17, 1973; (2) the decision in Civil Case C-2052 was signed by the respondent Judge on July 14, 1973; (3) the said decision was filed by the respondent Judge with Atty. Palanca, Branch Clerk of Court, on the same day — July 14, 1973 — with instructions to withhold the promulgation thereof "in order that certain aspects of the said decision may still be mulled over;" and (4) the said decision was finally promulgated on August 8, 1973.

The complainant proffers the proposition that the date of the promulgation of the decision should be considered "as the date when the case shall be deemed to have been decided." He argues that since the decision in Civil Case C-2052 was promulgated only on August 8, 1973, the said case must be considered to have been decided only on that date or 113 days after April 17, 1973, far beyond the three-month period fixed by the 1973 Constitution. The fact that the said case was reported to have been disposed of by the respondent Judge only in his report of filed and decided cases for the month of August 1973, the complainant avers, bolsters his contention.

In answer, the respondent Judge insists that Civil Case C-2052 should be considered decided as of the time he signed and filed the decision therein with the Branch Clerk of Court

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on July 14, 1973, and not on the date it was promulgated on August 8, 1973. Hence, he vehemently states, the case was decided well within the period contemplated.

Both the complainant and the respondent Judge agree that a case should be considered as decided at the time of the rendition of the judgment therein. Their disagreement relates to the question on when a judgment should be considered as rendered. The complainant maintains that a judgment should be considered as rendered at the time of the promulgation thereof; the respondent Judge contends differently.

On the matter, there exists no need for an extended discussion. For, in *Ago vs. Court of Appeals, et al.*[2] and subsequent cases,[3] this Court, in clear, definite and terse terms, stated that "it is the filing of the signed decision with the clerk of court that constitutes signed decision with the clerk of court that constitutes rendition." More emphatically, the Court ruled thus:

"It is only when the judgment signed by the judge is actually filed with the clerk of court that it becomes a valid and binding judgment."

This rule constitutes but an application of the procedural principle spelled out by the provisions of section 1, Rule 36 of the Rules of Court, which section reads:

"SECTION 1. *Rendition of judgments.* — All judgments determining the merits of cases shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court."

In the case at bar, the decision in Civil Case C-2052 was signed by the respondent Judge on July 14, 1973 and filed on

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[2] L-17898, October 31, 1962, 6 SCRA 530, 534.

[3] *People of the Philippines vs. Soria*, L-25175, March 1, 1968, 22 SCRA 948, 951; *Comia and Gaba, Sr. vs. Judge Nicolas, et al.*, L-26079, September 30, 1969, 29 SCRA 492, 502. Vide *Balquidra vs. Court of First Instance of Capiz, Branch II, et al.*, L-40490, October 28, 1977, 80 SCRA 123, 136.

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same day with the Branch Clerk of Court. These facts the documents in the record, particularly the copy of the decision in Civil Case C-2052 and the certification dated January 16, 1974 submitted by the Branch Clerk of Court, substantiate. Following the *Ago* rule on rendition of judgments, no other conclusion can follow except that the respondent Judge rendered his decision in Civil Case C-2052 well within the three-month period fixed by the 1973 Constitution. The circumstance that the promulgation of the decision was deferred to a later date upon instructions of the respondent Judge "in order that certain aspects of the said decision may still be mulled over" does not alter the fact that the said decision was actually rendered on July 14, 1973. The same observation applies to the circumstance that the said decision was included in the respondent Judge's report of filed and decided cases for the month of August 1973.

Anent the suspension of the promulgation of the decision in Civil Case C-2052 upon instructions of the respondent Judge "in order that certain aspects of the said decision may still be mulled over," there can be no valid objection thereto. Indeed, courts have the inherent power to amend and control their processes and orders so as to make them conformable to law and justice.[4] Certainly, "[a] judge has an inherent right, while his judgment is still under his control, to correct errors, mistakes, or injustices. After the judgment becomes final, of course, he loses his right to change or modify it in the slightest degree, except for the purpose of correcting clerical errors."[5] To deprive the judge of power to amend his own judgment to make it conformable to law and justice, before the expiration of the statutory period for appeal, would limit his power without authority of statute, in disregard of sound rules of practice and in violation of the provisions of the Rules of Court.

The charge, therefore, that the respondent Judge violated the provisions of subsection 1, Section 11 of Article X of the 1973 Constitution fails in the face of the finding that the respondent

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[4] Subsection g, Section 5 of Rule 135 of the Rules of Court.

[5] *Veluz vs. Justice of the Peace of Sariaya*, 42 Phil. 557, 563.

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Judge rendered his decision in Civil Case C-2052 on July 14, 1973, well within the period of three months set by the 1973 Constitution.

The Court deems it proper to confine itself to a discussion only of, in the first instance, whether or not the respondent Judge rendered his decision within the three month period stated by the 1973 Constitution. Finding that he did, the Court deems it unnecessary to treat the question relating to whether the provisions of subsection 1, Section 11 of Article X of the 1973 Constitution should be characterized as directory or mandatory.

II. The complainant bases his second charge against the respondent Judge on the provisions of Article 204 of the Revised Penal Code, which article reads;

"Art. 204. *Knowingly rendering unjust judgment.* — Any judgment who shall knowingly render an unjust judgment in any case submitted to him for decision shall be punished by *prision mayor* and perpetual absolute disqualification."

The complainant alleges that the respondent Judge promulgated a decision in Civil Case C-2052 contrary to the decisions of the Supreme Court in the following previous related proceedings involving the same parties:

1. *Associate Insurance and Surety Co., Inc. vs. Banzon and Balmaceda*, L-23971, November 29, 1968 (26 SCRA 268);

2. *Philippine National Bank vs. Sta. Maria, et al.*, L-24765, August 29, 1969 (29 SCRA 303); and

3. *Banzon and Balmaceda vs. Hon. Fernando Cruz, et al.*, L-31789, June 29, 1972 (45 SCRA 475).

The complainant states that the respondent Judge, "in awarding to the plaintiffs (in Civil Case C-2052) *in toto* what they prayed for in their complaint and amended complaint did so in bad faith and with full knowledge that said plaintiffs are not entitled thereto."

To dispose of the second charge, the Court reiterates the rule that "[i]n order that a judge may be held liable for knowingly

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rendering an unjust judgment, it must be shown beyond doubt that the judgment is unjust in the sense that it is contrary to law or is not supported by the evidence, and the same was made with conscious and deliberate intent to do an injustice."[6]

The rule requires that the judgment should be unjust for being contrary to law and for not being supported by the evidence. In the case at bar, to determine whether or not the decision of the respondent Judge in Civil Case C-2052 constitutes an unjust judgment would involve more than a mere cursory reading of the decision itself or its comparison with this Court's decisions invoked by the complainant. To delve into the different factors bearing on the issues raised in Civil Case C-2052 considered by the respondent Judge in arriving at his conclusions set forth in the decision in question for purposes of ascertaining the factual, legal and jurisprudential bases of the said decision, would be tantamount to pre-empting the Court of Appeals of its appellate jurisdiction over the case, considering that the same is pending before it. Indeed, this Court stated in *Gohol vs. Hon. Riodique*[7] that "only after the appellate court holds in a final judgment that a trial judge's alleged errors were committed deliberately and in bad faith may a charge of knowingly rendering an unjust decision be levelled against a trial judge." For, through an appeal, an aggrieved party can always point out, for rectification by the appellate court, the errors in the alleged unjust judgment affecting him.

The rule also requires that the judgment should be rendered by the judge with conscious and deliberate intent to do an injustice. In the case at bar, the complainant failed to show any unmistakable indication that bad faith motivated the alleged unjust actuations of the respondent judge in Civil Case C-2052. Absent, thus, any positive evidence on record that the respondent Judge

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[6] *In re: Hon. Rafael C. Climaco,* Adm. Case No. 134-J, January 21, 1975, 55 SCRA 107, 119; *Basuan vs. Judge Baes*, Adm. Case No. 585-CAR, December 26, 1974, 61 SCRA 475, 479; *Rodrigo vs. Hon. Quijano,* Adm. Matter No. 731-MJ, September 9, 1977, 79 SCRA 10, 11.

[7] L-40415, June 27, 1975, 64 SCRA 494, 504.

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rendered the judgment in question with conscious and deliberate intent to do an injustice, the second charge of the complainant must fall.

III. The complainant charges the respondent Judge with falsification by antedating his decision in Civil Case C-2052 in order to make it appear that he rendered the same within the three-month period set by the 1973 Constitution. Presumably for this reason, the complainant alleges, the respondent Judge had not, as of October 15, 1973, submitted his Certificates of Service and Monthly Reports for July and August, 1973.

In view of the conclusion arrived at that the respondent Judge rendered his decision in Civil Case C-2052 well within the three month period fixed by the 1973 Constitution, this charge must perforce be rejected. In addition, the copies of the Certificates of Service of the respondent Judge for the months of July and August 1973 (filed with and received by the Judicial Reports Section, Office of the Executive Officer, per the dates stamped thereon, on August 2, 1973 and September 4, 1973, respectively)[8] as well as the copies of the report of cases filed and disposed of for the months of July and August, 1973 (likewise filed with and received by the Judicial Reports Section, same Office, per the dates stamped thereon, on August 2, 1973 and September 4, 1973, respectively)[9] completely belie the complainant's assertion that the respondent Judge had not, as of October 15, 1973, submitted the said documents to the Court.

IV. The complainant also charges the respondent Judge and Atty. Palanca with "putting every obstacle to the approval of the Record on Appeal" in Civil Case C-2052 "in spite of lack of opposition duly filed on time." In simpler terms, the complainant alleges that the respondent Judge and Atty. Palanca delayed the approval of the Record on Appeal for, although the Record on Appeal was filed on August 28, 1973, the hearing thereon was set for September 8, 1973, the adverse party was furnished a copy thereof on August 28, 1973, and no objection was

[8] Record, pp. 57 to 58.

[9] Record, pp. 5 to 8.

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interposed thereto within five days from August 28, 1973, the respondent Judge acted on the said Record only "until after forty-four (44) days from September 8, 1973 as shown by the Order dated October 22, 1973 directing the defendants to amend their Record on Appeal."

In explanation, Atty. Palanca states that on September 7, 1973 (the day before the date set for the hearing on the Record on Appeal), the counsel for the plaintiffs filed an "Urgent *Ex-Parte* Motion for Time to Proofread and Check Record on Appeal." This motion the court *a quo* granted in an Order dated September 8, 1973, with notice thereof served on the counsel for the defendants on September 19, 1973.

Atty. Palanca also states that on September 15, 1973, the counsel for the plaintiffs filed an "Opposition to 'Record on Appeal,'" which opposition the counsel for the defendants countered with a reply filed on September 17, 1973. On the same day, the counsel for the defendants also filed an "*Ex-parte* Motion to Approve Record on Appeal and Disregard Opposition." On October 22, 1973, the court *a quo* ordered the amendments of the defendants' Record on Appeal. The counsel for the defendants sought the reconsideration of this order on October 31, 1973. At the hearing on the said motion on November 3, 1973, the court *a quo* approved the Record on Appeal after the counsel for the defendants effected the corrections and deletions in open court.

The Court finds the explanation for the delay in the approval of the Record on Appeal in Civil Case C-2052 more than satisfactory. Consequently, the complainant has no valid cause to charge the respondent Judge and Atty. Palanca with "putting every obstacle" to the approval of the said Record on Appeal.

Another charge against Atty. Palanca relates to infidelity in the custody of Judicial records for the loss or misplacement of a pleading, "Notice of Hearing of Application for Damages in Accordance with Section 20 of Rule 57 of the Rules of Court," allegedly filed by the counsel for the defendants on January 16, 1973. A copy of this pleading which the counsel for the defendants exhibited at the hearing on November 3, 1973 the

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court *a quo* ordered included in the Record on Appeal after due authentication.

Atty. Palanca makes no denial either of the loss or the misplacement of the pleading in question. However, Atty. Palanca submits, more in avoidance of an explanation rather than in disclaimer of the said loss or misplacement, an affidavit of the court employee charged with the task of receiving pleadings, Juanito Alejo, which affidavit narrates the circumstances surrounding the receipt of the pleading in question, the subsequent discovery of its loss or misplacement, and the consequent efforts to locate the same.

To dispose of the charge of infidelity in the custody of judicial records, the Court deems it unnecessary to probe the *minutiae* of the circumstances attendant to the loss or misplacement of the pleading in question. Even if the loss or misplacement of the said pleading could be attributed to Alejo, Atty. Palanca cannot be fully exonerated for she was remiss in the supervision of her subordinate. Atty. Palanca cannot be held entirely blameless for she failed to exercise proper supervision over her subordinate.[10]

The complainant also ascribes to Atty. Palanca violation of the provisions not only of the Anti-Graft Law or the Anti-Graft and Corrupt Practices Act but as well the Civil Service Law and the tenets of the New Society. However, the complainant fails to specify the provisions of the said law which he accuses Atty. Palanca of violating. Also, this charge the complainant mentioned for the first time in one of his letters dated July 8, 1974, wherein he commented on the explanation of Atty. Palanca relating to his earlier charges. In addition, the complainant omits to particularize allegations to support this charge.

The Court finds that this charge deserves no serious consideration. The complainant not only fails to allege with

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[10] *In re:* Motion for Reconsideration of Administrative Order No. 353 (April 13, 1973) by the President of the Philippines, Adm. Matter No. P-38, October 22, 1974, 60 SCRA 248, 251-252.

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particularity and clarity the fact complained of as constituting the violation of the provisions of the Anti-Graft Law, Anti-Graft and Corrupt Practices Act, Civil Service Law and tenets of the New Society, but also has failed to substantiate his ambiguous charge.

ACCORDINGLY, Atty. Paz G. Palanca is hereby admonished to exercise closer supervision over her subordinates in the performance of their duties, with the warning that the same or similar inaction in the future will be dealt with more severely. Finding no sufficient basis to warrant further proceedings relative to the charges against the Honorable Alberto Q. Ubay and the other charges against Atty. Palanca, the same charges are hereby dismissed.

Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, and *Guerrero, JJ.*, concur.

Teehankee, J., concurs in a separate opinion.

Fernando, J., took no part.

TEEHANKEE, *J., concurring:*

I concur in the result.

I only wish to state the view with reference to the complainant's first charge of respondent's having rendered his decision and judgment in the questioned case beyond the three-month period provided in the 1973 Constitution[1] that the rendition of a judgment is not effected and completed until after the decision and judgment as signed by the trial judge or on appeal by the Justices taking part shall have been filed with the clerk of court and the latter shall have caused copies thereof to be served upon the parties through their counsel.

[1] Article X, sec. 11 quoted on page 3 of the main opinion. Sec. 5 of the Judiciary Act of 1948, as amended, has a similar requirement for the judge to accomplish monthly certificates of work completed, certifying that all cases and motions, etc., which have been under submission for decision or determination for a period of 90 days or more have been determined and decided on or before the date of the certificate.

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In the trial courts, this is so provided in Rule 86, Section 1 and Rule 13, Section 7, which read:

"SECTION 1. *Rendition of judgments.* — All judgments determining the merits of cases shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of court." (Rule 36).

"SECTION 7. *Service of final orders or judgments.* — Final orders or judgments shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, final orders or judgments against him shall be served upon him also by publication at the expense of the prevailing party." (Rule 13).

In the appellate courts, Rule 51, Section 9 similarly provides that:

"SECTION 9. *Filing and notice of judgment.* — After the judgment and dissenting opinions, if any, are signed by the Justices taking part, they shall be delivered for filing to the clerk who shall cause true copies thereof to be served upon the parties or their counsel."

In other words, it is *not* sufficient compliance for the trial judge to sign his *tentative* judgment and file it with his clerk within the three-month period with instructions to withhold the promulgation and service thereof" in order that certain aspects of the said decision may still be mulled over," *i.e.* substantially altered, modified, reviewed or reversed and then *after* the expiration of the period (113 days in this case) and after he had finally made up his mind to have the same promulgated and released to the parties (or made the corresponding changes and revisions therein, as the case may be) to direct his clerk of court to cause the promulgation and service thereof to the parties.

This is the clear context of the Court's ruling in *Ago vs. Court of Appeals*[2] cited in the main opinion, wherein the Court held that the pronouncement of a judgment on a compromise

[2] 6 SCRA 530, 534-535; italics supplied.

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in *open court* was *not* a sufficient *notice* to the parties and that the issuance of the writ of execution *before* such judgment was rendered by the judge's *filing* of his *signed judgment* with the clerk of court and the latter's *service* thereof upon the parties by personal service or registered mail (as required by the Rules of Court) was therefore null and void.

The Court thus held therein that "(T)he court of first instance being a court of record, in order that a judgment may be considered as rendered, it must not only be in *writing, signed* by the judge, but it must also be *filed* with the clerk of court. The mere *pronouncement* of the judgment in open court with the stenographer taking note thereof does *not*, therefore, constitute a *rendition* of the judgment. It is the *filing* of the signed decision with the clerk of court that constitutes rendition. While it is to be presumed that the judgment that was dictated in open court will be the judgment of the court, the court may still *modify* said order as the same is being but into writing. And even if the order or judgment has already been put into writing and signed. while it has not yet been delivered to the clerk for filing, it is still *subject* to *amendment* or *change* by the judge. It is only when the judgment signed by the judge is actually filed with the clerk of court that it becomes a valid and binding judgment. Prior thereto, it could still be subject to amendment and change and may not, therefore, constitute the real judgment of the court."

The Court stressed therein that "(R)egarding the *notice* of judgment, the mere fact that a party heard the judge *dictating* the judgment in *open court,* is not a valid notice of said judgment. If rendition thereof is constituted by the filing with the clerk of court of a signed copy (of the judgment), it is evident that the fact that a party or an attorney heard the order or judgment being dictated in court cannot be considered as notice of the real judgment. No judgment can be notified to the parties unless it has previously been rendered. The notice, therefore, that a party has of a judgment that was being dictated is of no effect because at the time no judgment has as yet been signed by the judge and filed with the clerk."

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The Court finally added that in accordance with the provisions of the Rules of Court (Rule 13 [formerly Rule [27], section 7) requiring service of final orders or judgments personally or by registered mail, "a party is not considered as having been served with the judgment merely because he heard the judge dictating the said judgment in open court; it is *necessary* that he be *served* with a copy of the *signed* judgment that has been *filed* with the clerk in order that he may *legally* be considered as having been served with the judgment."

Since the judge's signed judgment although filed with the clerk of court but with instructions to withhold release and service upon the parties is concededly merely a *tentative* one and still subject to change and total modification by him, he may not thereby claim to have complied with the three-month deadline for deciding cases. The signed judgment must be filed *unconditionally* with the clerk of court within the said deadline, so that *notice* and *copy* thereof may forthwith be *served* upon the parties as required by the Rules of Court.

I vote for the dismissal of the charge, since the respondent judge's delay in this instance appears to be an isolated one and was not too much (a delay of 23 days). The same is not of sufficient gravity as to warrant withholding or forfeiting any part of the retirement benefits justly earned by respondent judge who has already reached the compulsory retirement age.