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The possible legal implication of the lease on the petitioner's act of trying to redeem the disputed lot is a question which, in our opinion, can best be resolved in the *mandamus* complaint. Whether the agreement must be construed as a waiver on his part of exercising his purported right of redemption is an issue best left for the court therein to decide. Whether by acknowledging the legality of the respondent's claim and title over the land at the time of the execution of the contract, he likewise perpetually barred himself from redeeming the same is a matter which can be addressed most aptly in that pending action. Hence, there is presently no need for us to squarely rule on this ultimate point.

IN VIEW WHEREOF, finding no cogent reason to disturb the assailed Decision, the instant petition is hereby *DENIED*.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Pardo, and *Ynares-Santiago, JJ.*, concur.

Kapunan, J., on official leave.

SECOND DIVISION

[A.M. No. 01-9-246-MCTC. October 9, 2001]

RE: HOLD DEPARTURE ORDER ISSUED IN CRIMINAL CASE NO. 2735

OFFICE OF THE COURT ADMINISTRATOR, *complainant, vs.* **JUDGE ALIPIO M. ARAGON, Acting Presiding Judge, Third Municipal Circuit Trial Court, Tumauini-Delfin Albano, Isabela,** *respondent.*

SYNOPSIS

On September 15, 2000, Acting Presiding Judge Alipio M. Aragon of the Third Municipal Circuit Trial Court of Tumauini-Delfin Albano, Isabela issued a hold departure order in relation to

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Criminal Case No. 2735 entitled "*People of the Philippines v. Jocelyn Pascaran*". Associate Commissioner Forter G. Puguon of the Bureau of Immigration, Department of Justice, indorsed the matter to the Court Administrator for his information and appropriate action. Required to comment, Judge Aragon informed the Court that he was withdrawing his order in view of Circular No. 39-97 and the resolution of the Court in A.M. No. 99-8-108-MCTC which, respondent judge came to know of after coming across the July-September 1999 issue of the PHILJA Bulletin.

It bears noting that Circular No. 37-97 is not a recent issuance of the Court. In fact, as early as in 1998, the Court reprimanded a Municipal Trial Court judge for issuing a hold departure order when Circular No. 37-97 limits the authority to issue hold departure orders to Regional Trial Courts in criminal cases within their exclusive jurisdiction. Clearly, respondent judge's unawareness of the circular and decisions concerning hold departure orders indicated a failure to live up to the Code of Judicial Conduct which enjoins judges "to be faithful to the law and to maintain professional competence." Respondent judge should be reminded that only by diligent efforts in keeping abreast of developments in our legal system can he live up to his judicial duties. Indeed, in several cases involving similar violations, the Court imposed the penalty of reprimand on the erring judges. Hence, the same penalty should be imposed on Judge Aragon. His withdrawal of the subject hold departure order cannot mitigate his liability.

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; CODE OF JUDICIAL CONDUCT; JUDGES SHALL BE FAITHFUL TO THE LAW AND MAINTAIN PROFESSIONAL COMPETENCE; VIOLATED BY A JUDGE WHO IS UNAWARE OF THE CIRCULAR AND DECISIONS CONCERNING HOLD DEPARTURE ORDERS; CASE AT BAR.—** It bears noting, however, that Circular No. 37-97 is not that recent an issuance of the Court. In fact, as early as in 1998, the Court reprimanded a Municipal Trial Court judge for issuing a hold departure order when Circular No. 37-97 limits the authority to issue hold departure orders to Regional Trial Courts in criminal cases within their exclusive jurisdiction. Clearly, respondent judge's unawareness of the circular and decisions concerning hold departure orders indicates a failure to live up to the Code of Judicial Conduct which enjoins judges

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"to be faithful to the law and to maintain professional competence." Respondent judge should be reminded that only by diligent efforts in keeping abreast of developments in our legal system can he live up to his judicial duties.

2. **ID.; ID.; ID.; ID.; ERRING JUDGES REPRIMANDED; NOT MITIGATED BY THE WITHDRAWAL OF THE HOLD DEPARTURE ORDER.** — Indeed, in several cases involving similar violations, the Court imposed the penalty of reprimand on the erring judges. Hence, the same penalty should be imposed on Judge Aragon. His withdrawal of the subject hold departure order cannot mitigate his liability.

DECISION

MENDOZA, *J.*:

This refers to the indorsement, dated October 18, 2000, of Associate Commissioner Forter G. Puguon of the Bureau of Immigration, Department of Justice to the Court Administrator concerning a hold departure order issued on September 15, 2000 by Acting Presiding Judge Alipio M. Aragon of the Third Municipal Circuit Trial Court of Tumauini-Delfin Albano, Isabela in Criminal Case No. 2735 entitled "*People of the Philippines v. Jocelyn Pascaran*" for the Court Administrator's information and appropriate action.

Required to comment, Judge Aragon explained to the Court that he was withdrawing his order in view of Circular No. 39-97, dated June 19, 1997, and the resolution of the Court, dated August 25, 1999, in A.M. No. 99-8-108-MCTC[1] which, it would seem, respondent judge came to know of after coming across the July-September 1999 issue of the *PHILJA Bulletin*.

It bears noting, however, that Circular No. 37-97 is not that recent an issuance of the Court. In fact, as early as in 1998, the Court reprimanded a Municipal Trial Court judge for issuing a hold departure order when Circular No. 37-97 limits the authority

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[1] *Hold Departure Order Issued by Judge Eusebio M. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan,* 313 SCRA 44 (1999).

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to issue hold departure orders to Regional Trial Courts in criminal cases within their exclusive jurisdiction.[2] Clearly, respondent judge's unawareness of the circular and decisions concerning hold departure orders indicates a failure to live up to the Code of Judicial Conduct which enjoins judges "to be faithful to the law and to maintain professional competence."[3] Respondent judge should be reminded that only by diligent efforts in keeping abreast of developments in our legal system can he live up to his judicial duties.

The Court Administrator in its report, dated August 16, 2001, recommends that this administrative matter be redocketed as an administrative complaint against respondent judge and that he be reprimanded for his violation of Circular No. 39-97 and be advised to be diligent in the performance of his judicial functions by keeping himself cognizant of the circulars and issuances of the Court.

Indeed, in several cases[4] involving similar violations, the Court imposed the penalty of reprimand on the erring judges. Hence, the same penalty should be imposed on Judge Aragon. His withdrawal of the subject hold departure order cannot mitigate his liability.[5]

WHEREFORE, the Court RESOLVED to REDOCKET this matter as an administrative complaint against respondent Alipio M. Aragon, Acting Presiding Judge of the Third Municipal Trial Court of Tumauini-Delfin Albano, Isabela, and to REPRIMAND him for violation of Circular No. 39-97 with WARNING that repetition of the same or similar acts will be dealt with more

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[2] *Re: Hold Departure Order Issued by Judge Juan C. Nartatez*, 298 SCRA 710 (1998).

[3] Canon 3, Rule 3.01.

[4] A.M. No. 00-12-81-MTJ, "*Re: Hold-Departure Order, dated August 9, 1999, Issued by Judge Salvador B. Mendoza, MCTC, Poro-San Francisco-Tedela-Pilar, Poro, Cebu,*" Sept. 14, 2000; *Hold Departure Order Issued by Acting Judge Aniceto L. Madronio, MTC, Manaoag, Pangasinan,* 323 SCRA 345 (2000); *Issuance of Hold Departure Order of Judge Luisito T. Adaoag, MTC, Camiling, Tarlac*, 315 SCRA 9 (1999); *Re: Hold Departure Order Issued by Judge Juan C. Nartatez, supra.*

[5] *Hold Departure Order Issued by Judge Eusebio M. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, supra.*

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severely. Judge Aragon is advised to be diligent in keeping himself abreast with developments in law and jurisprudence.

SO ORDERED.

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

SECOND DIVISION

[G.R. No. 138886. October 9, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **SPO1 WILFREDO LEAÑO, SPO1 FERDINAND MARZAN, SPO1 RUBEN B. AGUSTIN, SPO2 RODEL T. MADERAL, SPO2 ALEXANDER S. MICU and SPO4 EMILIO M. RAMIREZ,** *accused,* **SPO1 WILFREDO LEAÑO, SPO1 FERDINAND MARZAN, SPO1 RUBEN B. AGUSTIN, SPO2 ALEXANDER S. MICU, and SPO4 EMILIO M. RAMIREZ,** *appellants.*

SYNOPSIS

The Regional Trial Court, Branch 41, of Manila convicted Wilfredo Leaño, Ferdinand Marzan, Ruben Agustin, Alexander Micu and Emilio Ramirez of two counts of murder for killing Elizer Tullao and Vicente Bauzon and the penalty of reclusion perpetua was imposed upon them for the death of each victim. Their conviction was based on the circumstantial evidence presented by the prosecution that on March 3, 4, and 5, 1996, the five accused, who were all members of the Santiago City Police Force, went to the Lucky One Cocktail Lounge and asked Elizabeth Feliciano about the whereabouts of her live-in partner, Elizer Tullao. And at past 2:00 o'clock in the early morning of March 8, 1996, while Dionisio Secolles was driving his tricycle along the provincial road,

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* At Large.