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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.M. No. RTJ-98-1424. October 13, 1999]

ROMULO G. MADREDIJO, MAMERTO J. CAUBE, MATILDE D. COROLLO, NOLIBELLE H. PLAZA, MA. DESORA L. CASTONES, EDILBERTA C. SIANO, RICARDO B. QUISADO, NORBERTO J. CAUBE, BILLY M. NOMBRADO, VIVIAN M. MONTANES, JONATHAN MAMADO, NENA LIGUID, IMELDA B. CONATO, and VIOLETA HIPE, *complainants, vs.* **JUDGE LEANDRO T. LOYAO, JR., Regional Trial Court of Maasin, Southern Leyte,** *respondent.*

SYNOPSIS

In three separate letter-complaints, Executive Judge Leandro T. Loyao Jr. of the Regional Trial Court of Maasin, Southern Leyte was charged with 1) grave abuse of authority, 2) ignorance of the law, 3) violation of constitutional rights, 4) violation of the Anti-Graft and Corrupt Practices Act, 5) conduct unbecoming a judicial officer, 6) sexual harassment, and 7) vindictiveness and harassment.

Respondent was found administratively liable by the Court. He tried to solicit sexual favors from a subordinate, allowed the purchase by his wife of a house belonging to a fugitive facing charges before his sala, harassed employees who complained about his acts, and wrongly applied the Indeterminate Sentence Law. Respondent's actions breached

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the fundamental responsibilities of a judge to be the embodiment of competence, integrity and independence; to avoid impropriety and the appearance thereof in his public and private activities; and to promote public confidence in the integrity and impartiality of the judiciary.

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; SHOULD AVOID IMPROPRIETY AND APPEARANCE OF IMPROPRIETY.** — The fact that RA 7877 was not yet in effect at the time does not make his conduct regular or valid. Sexual harassment was not criminal at that time, but neither was it acceptable, as in fact it has never been acceptable. The purpose of this administrative case is not to determine whether he violated RA 7877, but whether by his acts he has remained faithful to the Code of Judicial Conduct. The Code provides that "a judge should avoid impropriety and the appearance of impropriety in all activities." It also mandates that "a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary." Thus, the Court has held that "a judge's personal behavior, both in the performance of his duties and in his daily life, be free from the appearance of impropriety as to be beyond reproach."

2. **ID.; ID.; PERSISTENT SOLICITATION OF SEXUAL FAVORS FROM SUBORDINATE CONSTITUTES IMMORALITY.** — The records and the findings of Justice Quimbo show that respondent failed to live up to the exacting standards of the judiciary. Over a long period of time, he persistently tried to solicit sexual favors from Hipe, his subordinate. When she refused, he made her working conditions so unbearable that she was eventually forced to transfer to another office. Certainly, no judge has a right to solicit sexual favors from any court employee, even from a woman of loose morals. His conduct indubitably bears the marks of impropriety and immorality.

3. **ID.; ID.; IMMORALITY NOT CONFINED TO SEXUAL INTERCOURSE.** — The insistence of respondent that he did not have sexual intercourse with Hipe does not render his conduct less reprehensible. The Court has recognized that

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immorality is not based on illicit sexual intercourse alone, *viz.*: "[I]mmorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity and dissoluteness; or is willful, flagrant, or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude toward good order and public welfare."

4. **ID.; ID.; REPRIMANDING EMPLOYEE FOR TARDINESS ALLEGEDLY INCURRED FOR FIVE DAYS AND DIRECTING CLERK OF COURT TO HOLD OFFICE DURING SATURDAY MORNINGS CONSTITUTE HARASSMENT.** — Imelda Conato, Stenographer III, also alleged that after they filed the present Complaint, respondent reprimanded her on June 17, 1997, for the habitual tardiness she had allegedly incurred from January 27 to 31, 1997. Vivian Montanes, for her part, averred that respondent, upon learning that she was one of the complainants, revoked her designation as OIC clerk of court of RTC Branch 25. On the other hand, Mamerto Caube, MTC clerk of court, claimed that respondent required him to be the first to arrive at the office and the last to leave. In addition, he was also directed to hold office during Saturday mornings, except the second Saturday of the month. Furthermore, the legal basis of his assailed Orders was, at best, shaky. Specifically, his Order admonishing Conato for habitual tardiness was inconsistent with CSC Memorandum Circular No. 04, s. 1991, which defined the offense as tardiness for "ten times a month for at least two months in a semester or at least two consecutive months during the year." Likewise this directive to Caube, an MTC clerk of court, to report on most Saturdays was not borne by Circular No. 95-96, which merely empowered executive judges to assign, *by rotation*, MTC *judges* within their respective jurisdiction to report on Saturday mornings, *assisted by a skeletal force, also on rotation.* Nothing in the circular required a clerk of court to be at his post on most Saturdays. These circumstances, taken together, revealed respondent's intention to harass the complainants.

5. **ID.; JUDGES SHOULD NOT RESENT ANY FAIR CRITICISM OF PUBLIC DUTIES.** — In harassing the complainants who filed the present administrative case, he breached the basic

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norm that judges should not resent any fair criticism of their public duties. It should be stressed that judges must rise above the pettiness of ordinary human beings. Any attack on their qualifications must be met with the force of sound argument in the proper forum, not with the brute exercise of superior power. In doing otherwise, as in this case, respondent shed the "vestment of propriety," which a judge is called upon to wear at all times.

6. **ID.; JUDGES SHOULD REFRAIN FROM FINANCIAL AND BUSINESS DEALINGS THAT TEND TO REFLECT ADVERSELY ON COURT'S IMPARTIALITY; CASE AT BAR.** — The business dealings of a judge are governed by the Code of Judicial Conduct, which provides that "a judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties." Rule 5.02 specifically prescribes that "a judge shall refrain from financial and business dealings that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities, or increase involvement with lawyers or persons likely to come before the court. x x x." Respondent claims that he did not know that the vendor had a pending case before his sala; besides, the buyer was his wife, not he. These excuses and ratiocinations are not convincing. We are convinced that respondent knew about the transaction *and* the identity of the seller. Although he knew that the transaction might "reflect adversely on [his] impartiality," he exerted no effort to dissuade his wife. Indeed, he did not abide by his mandate that he should be "scrupulously careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in determining his judicial course." More than this, however, the circumstances of this case show that naming his wife as the vendee was merely a convenient ploy to circumvent the Code of Judicial Conduct, which prohibits judges from entering into financial transactions with litigants before their sala. This Court cannot allow the subterfuge. In allowing his wife to enter into a contract of sale, although he knew and should have known that the vendor had a pending case before him, he effectively violated the proscription.

7. **CIVIL LAW; PRESCRIPTION OF ACTIONS; ANNULMENT OF MARRIAGE; TEN-YEAR PRESCRIPTIVE PERIOD OF**

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ACTION FOR ANNULMENT OF MARRIAGES CELEBRATED PRIOR TO EFFECTIVITY OF FAMILY CODE. — Article 39 of the Family Code specifically provides that "in the case of marriages celebrated before the effectivity of this Code and falling under Article 36, such action or defense shall prescribe in ten years after this Code shall have taken effect." Since the marriage was celebrated in 1982 before the effectivity of the Family Code, the claim of psychological incapacity had not yet prescribed when it was raised in 1992 and when the trial court rendered its Decision in 1994.

8. **JUDICIAL ETHICS; JUDGES; MAY NOT BE ADMINISTRATIVELY CHARGED FOR MERE ERROR OF JUDGMENT.** — The Court has repeatedly held that a judge may not be held administratively liable for every erroneous decision he renders, for no person called upon to determine the facts or interpret the law in the administration of justice can be infallible. The Court declared long ago that "the duty to deliberate does not impose the obligation to decide right." All that is expected of a judge is that "he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues presented, and on the basis of the conclusions he finds established, adjudicate the case accordingly." Thus, it has been held that the "error must be gross or patent, deliberate and malicious, or incurred with evident bad faith; it is only in these cases that administrative sanctions are called for as an imperative duty of the Supreme Court." The firmly established principle is that a judge may not be administratively charged for mere error of judgment, in the absence of a showing of any bad faith, malice or corrupt purpose. There was no such showing in connection with Civil Case No. R-2706.

9. **ID.; ID.; UNFAMILIARITY WITH ELEMENTARY LAW CONSTITUTES GROSS IGNORANCE.** — It is a well-settled rule that "when the law is elementary, so elementary, not to know it constitutes gross ignorance of the law." In another case, the Court held that unfamiliarity with the application of the Indeterminate Sentence Law was censurable.

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DECISION

***PER CURIAM*:**

In three separate letter-complaints dated June 9, 1997, July 8, 1997, and September 7, 1997, respectively, Executive Judge Leandro T. Loyao of the Regional Trial Court (RTC) of Maasin, Southern Leyte, Branch 24, was charged with (1) grave abuse of authority, (2) ignorance of the law, (3) violation of constitutional rights, (4) violation of the Anti-Graft and Corrupt Practices Act, (5) conduct unbecoming a judicial officer, (6) sexual harassment and (7) vindictiveness and harassment.

The 14-page Complaint[1] dated June 9, 1997[2] addressed to the Office of the Chief Justice charged respondent with (1) grave abuse of authority, (2) ignorance of the law, (3) violation of constitutional rights, (4) violation of the Anti-Graft and Corrupt Practices Act, (5) conduct unbecoming a judicial officer, and (6) sexual harassment. It was signed by Mamerto J. Caube, Clerk of Court II, MTC of Maasin, Southern Leyte; Ricardo B. Quisado, Court Interpreter, MTC of Maasin, Southern Leyte; Matilde D. Corollo, Court Stenographer I, MTC of Maasin, Southern Leyte; Norberto J. Caube, Court Stenographer I, MTC of Maasin, Southern Leyte; Nolibelle H. Plaza, Clerk II, MTC of Maasin; Billy M. Nombrado, Junior Process Server, MTC of Maasin; Ma. Desora L. Castones, Utility Worker I, MTC of Maasin; Vivian M. Montanes, Legal Researcher, RTC Br. 25, Maasin; Romulo G. Madredijo, Sheriff IV, OCC RTC, Maasin; Jonathan Mamado, Utility Worker II, OCC RTC, Maasin; Edilberta C. Siano, Court Stenographer III, RTC, Br. 25, Maasin; Imelda B. Conato, Court Stenographer III, RTC, Br. 25, Maasin; and Violeta Hipe, Court Stenographer III, RTC, Baybay, Leyte.

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[1] A similar Complaint dated June 9, 1997, was filed before the Office of the Ombudsman, which forwarded it to this Court.

[2] Received by the Court on June 26, 1997.

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The first three charges — grave abuse of authority, ignorance of the law and violation of constitutional rights — arose from the respondent's issuance of Regional Administrative Order (RAO) No. 10-97,[3] which "require[d] the attendance of ALL civilian employees of the court from the Clerks of Court down to the utility aide of each RTC and MTC or MCTC under its territorial jurisdiction" at the convention-seminar of the Philippine Association of Court Employees (PACE) on May 7-9, 1997 at Tagbilaran City.

Complainants argued that respondent abused his authority, because RAO 10-97 differed substantially from the Court Administrator's Circular No. 5B-97. They stated that the latter did not *compel* the attendance of *all court employees;* it merely *authorized* the *PACE members* to attend the seminar with the prior permission of the executive or the presiding judge.

Because RAO 10-97 directed the employees to use their share in the Judiciary Development Fund (JDF) for their expenses in the PACE seminar, complainants also charged respondent with gross ignorance of the law, specifically of PD 1949 which governed the JDF. They alleged that PD 1949 established the JDF to augment the allowances of court personnel and not for any other purpose. In the same vein, they argued that RAO 10-97 violated their constitutional right to the exclusive use of their property; that is, their salaries and JDF shares.

It may be noted that some of herein complainants had previously filed a Letter-Complaint dated May 2, 1997, asking the Court to annul RAO No. 10-97.

In alleging that respondent violated the Anti-Graft and Corrupt Practices Act, they averred that he usually directed Jonathan Mamado (then an employee of the Halls of Justice) and some other court employees to work in his house during office hours.

They also charged him with conduct unbecoming a judicial officer, because he allegedly purchased the property of Metudio

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[3] Annex "A", June 9, 1997 Complaint.

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Lili, an accused at large whose criminal case for murder was archived in respondent's sala. This charge was amplified in the September 7, 1997 unsworn letter-complaint of Nena Liguid, the widow of Lili's victim.

The charge of sexual harassment, on the other hand, stemmed from the allegations of Violeta Hipe that respondent had made sexual advances at her. Her insistent refusal prompted the judge to carp at her work. When her situation became unbearable because of respondent's actions, she asked for a transfer to the RTC of Baybay, Leyte, where she is now stationed.

In the second Complaint[4] dated July 8, 1997, filed by Romulo S. Madredijo, Imelda B. Conato, Vivian M. Montanes and Mamerto J. Caube, respondent judge was also charged with ignorance of the law, vindictiveness and harassment. Gross ignorance of the law, they maintained, was manifested in two cases decided by respondent judge. In the first, Civil Case No. R-2706, respondent voided a marriage under Article 36, although the Complaint prayed for legal separation, support *pendente lite* and administration of property. In the second, Criminal Case No. R-4242, respondent applied the Indeterminate Sentence Law, although the maximum penalty imposed was two months of *arresto mayor*. They further maintain that respondent started harassing them after he learned that they were among those who had filed the Complaint dated June 9, 1997.

On October 30, 1997, complainant Madredijo also prayed that his Comment to respondent's Order of October 24, 1997, be considered as part of the above-mentioned charges.[5] In that Comment, he stated that respondent had directed him to attach a losing litigant's salary which was not yet due.

In her unsworn Complaint dated September 7, 1997,[6] Nena Liguid maintained that respondent was giving special treatment

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[4] *Rollo*, pp. 60-76.

[5] *Rollo*, p. 254.

[6] *Rollo*, p. 244.

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to Metudio Lili, a fugitive facing charges before respondent's sala for killing her husband. She also alleged that respondent's wife purchased the house and lot of the said accused for ₱170,000, although the market price was ₱2 million. She further maintained that respondent knew the whereabouts of the said accused, a friend and former neighbor, but that he refused to issue a warrant for his arrest.

In a Resolution dated October 1, 1997,[7] the Court ordered respondent to comment on the three Complaints, as well as on the Petition to nullify RAO 10-97.

On November 11, 1997, the Court received respondent's Manifestation/Motion, stating that he had issued RAO 10-97 in good faith, but that he could not comment on the three administrative Complaints, for he had not been furnished copies thereof.

Meanwhile, on October 3, 1997, complainants Madredijo, Conato, Montanes and Caube filed an "Urgent Motion to Place Respondent Under Preventive Suspension Pending the Resolution of the Case."[8] They claimed that respondent judge, upon learning of the filing of the Complaints, began harassing them and venting his ire on lawyers appearing before him whom he suspected of having assisted the complainants.

In its Resolution dated November 12, 1997, the Court noted complainants' urgent motion to place respondent under preventive suspension and referred the matter to the Office of the Court Administrator (OCA).

On November 17, 1997, respondent filed his 79-page Comment.[9] In a Supplemental Comment received by the Court on November 27, 1997, he also prayed for the dismissal of the complainants "for signing and filing their false, fabricated, manufactured, malicious and ill-motivated letter-complaint of

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[7] *Rollo*, pp. 258-259.

[8] *Rollo*, p. 251.

[9] *Rollo*, pp. 381 *et seq.*

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July 8, 1997."[10] These were also referred to the OCA, which submitted its Memorandum to this Court on September 18, 1998.

Acting on the recommendation of the OCA, the Court in its October 21, 1998 Resolution placed respondent under preventive suspension pending the investigation. It also set aside the questioned RAO 10-97, admonished him to show courtesy to the OCA by not changing the latter's directive, and dismissed his Complaints against herein complainants in connection with the Administrative Order. Finally, the Court also referred to Justice Romulo Quimbo, consultant of the OCA, four charges for investigation, report, and recommendation. These charges were (1) violation of the Anti-Graft and Corrupt Practices Act relative to Jonathan Mamado; (2) sexual harassment involving Ms. Violeta Hipe; (3) vindictiveness and harassment as alleged by Romualdo G. Madredijo, Imelda B. Conato, Vivian Montanes and Mamerto J. Caube; and (4) conduct unbecoming a judge specified in the letter-complaint of Nena Liguid. The said Resolution reads: [11]

"Considering the letter-complaint dated June 9, 1997, the Court Resolved to:

"(a) *SET ASIDE* the questioned Circular No. 10-97, Series of 1997 of respondent Judge Loyao for having been issued with grave abuse of discretion and not being in accord with Administrative Circular No. 53-97 dated March 10, 1997 of the Office of the Court Administrator which set the terms of the attendance to the Ninth Annual Convention and Election of officers of the PACE and respondent Judge Loyao is hereby *ADMONISHED* to show courtesy to the issuing authority by not varying/contradicting the directives coming from the Office of the Court Administrator;

"(b) *DISMISS* the complaints filed by respondent Judge Loyao against the court personnel in violation of the questioned circular; and

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[10] Supplemental Comment, p. 8; *rollo*, p. 469.

[11] *Rollo*, pp. 500-501.

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"(c) *REFER* to Justice Romulo Quimbo, Consultant, Office of the Court Administrator, for investigation, report and recommendation within sixty (60) days from notice: (1) the sexual harassment charge involving Ms. Violeta Hipe; and (2) the charge involving x x x the Anti-Graft and Corrupt Practices Act relative to the affidavit of Jonathan Mamado.

"Anent the letter-complaint dated July 9, 1997, the Court further Resolved to *REFER* to Justice Quimbo for investigation, report and recommendation, also within sixty (60) days from notice: (1) the charges of vindictiveness and harassment relative to the specifications proffered by Deputy Sheriff Romulo G. Madredijo, Ms. Imelda B. Conato, Ms. Vivian Montanes and MTV Clerk of Court Mamerto J. Caube; and (2) the complaint of Mrs. Nena Liguid on the charge of Conduct Unbecoming of a Judicial Officer specified in the said letter-complaint.

"The Court finally Resolved to *SUSPEND* respondent Judge Loyao from office effective immediately and until the termination of the investigation."

Thereafter, respondent filed a Motion to Dismiss the "remaining four charges." Subsequently, he also filed a Supplemental Motion to Dismiss.

Meanwhile, Justice Quimbo scheduled the case for hearing on January 4-7, 1999, at the Supreme Court in Manila. Complainants then filed an Urgent Motion praying that the venue be transferred to Maasin, Southern Leyte. Respondent, on the other hand, prayed that the motion be denied, and asked for his reinstatement. Later, he filed another Manifestation, praying that his two Motions to Dismiss be resolved and that he be automatically reinstated to his position.

Thereafter, respondent filed an Omnibus Motion, asking that the case be deemed submitted for resolution based on the pleadings already filed. When asked to comment, complainants indicated their conformity to respondent's Motion.

On May 31, 1999, Justice Quimbo submitted his Report to this Court. On the basis of the pleadings filed, he found respondent guilty of (1) conduct prejudicial to the service in connection with the charge of Hipe and (2) harassment of four complainants,

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but exonerated him from the charges of (1) violating the Anti-Graft and Corrupt Practices Act and (2) conduct unbecoming a judge. The conclusion of Justice Quimbo reads:[12]

"Considering the above, the undersigned recommends that respondent be exonerated from the charge of violating the Anti-[G]raft Law in connection with the statement of Jonathan Mamado and the charge in connection with the alleged letter of Ms. Nena Liguid; that for conduct prejudicial to the service, in connection with the charge of Ms. Violeta Hipe and the continued harassment of four of the employees who signed the letter complaint against him, respondent be suspended for the period he had already been preventively suspended; that respondent be admonished to refrain from filing repeated complaints against the said personnel unless the complaints are really meritorious; that he be admonished to refrain from acting towards the female members of his staff in any manner which may be interpreted as libidinous advances.

"The undersigned believes that the unhealthy climate existing in the judicial offices in Maasin, Southern Leyte, can not be healed as long as respondent retains his military biases. Respondent should be advised to either purge himself of x x x such biases or apply for optional retirement to which he is already entitled or seek a transfer to another court."

We will examine *seriatim* the findings of Justice Quimbo.

Violation of the Anti-Graft and

Corrupt Practices Act

The present charge arose from the allegation of complainant Jonathan Mamado that he was required to work for respondent during Saturdays, Sundays and holidays, without compensation. At one time, he was even directed to paint the fence of respondent's house during office hours.

Respondent, on the other hand, denied the allegations of Mamado. He maintained that complainant's Daily Time Record (DTR) indicated that he had always reported at the office.

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[12] Quimbo Report, pp. 14-15.

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Furthermore, respondent alleged that it was complainant who had insisted on working on Saturdays and Sundays so that he could augment his meager income. Complainant allegedly joined the others in filing this Complaint because of respondent's refusal to recommend the renewal of his appointment as a contractual employee at the Halls of Justice.

We agree with Justice Quimbo that this charge should be dismissed. If it were true that Mamado had been working *gratis* for respondent on Saturdays and Sundays, the latter would have exerted effort for his reappointment. In fact, Mamado's contention that he worked for respondent during office hours is belied by his DTRs, which show that he was inside the office during those times.

Sexual Harassment

In her Affidavit,[13] Violeta Hipe charged respondent with sexual harassment, as evidenced by a series of incidents beginning in December 1992 and culminating in her transfer to another court.

In December 1992, Hipe asked permission to go on leave, but respondent denied it, saying that he would miss her. At another time, he called her to his chambers for a conversation because he was sad; he added that he would call her every time he felt that way, for he enjoyed her company.

During the Christmas party of the court employees, while Hipe was watching the employees' children play, respondent approached her and whispered in the vernacular, "*Kanus-a man ta magbuhat ug ato?*" which means, "When will we make ours?" After the party, respondent, through Madredijo, asked her to go with him to a disco. She refused.

At another time, also at night, respondent ordered Nicetas Ordiz, who has since retired as a sheriff, to fetch Hipe so that she could join him in a drinking spree. Again, she refused. Afterwards, Ordiz went back to her to reiterate respondent's invitation, with a warning for her not to tell anybody about the

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[13] Annex "H", June 9, 1997 Complaint.

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incident. Later, respondent called her to his chambers and suddenly asked, "Are you ready for our date tonight?" She also refused.

Since then, she began distancing herself from him. When respondent noticed her behavior, he confronted her; she answered that she did not like his actuations. Thereafter, he told her that "if I did not like his company, I better look for another job." Subsequently, he began to find fault in her activities, until she was forced to seek a transfer to another court.

Hipe's assertions were corroborated by Madredijo and Ordiz, both of whom had allegedly been ordered by respondent on separate occasions to fetch her from her house for a drinking spree.

In his Comment,[14] respondent denied the charge. Because he had assumed office as a presiding judge only on November 12, 1992, he could not have known Hipe well enough during the Christmas party to make sexual advances at her. Respondent further avers that her allegations were impossible, because his room was always open and always occupied by three other employees.

Likewise, the Velvetian Ballroom and Disco Pub, the first in Maasin, opened only in August 1995, a fact which he used to prove that he could not have invited her to a disco after the Christmas party in 1992. Even granting that he did so, respondent maintains that "this alleged disco invitation is nothing more than me inviting Deputy Court Administrator Zenaida Elepano to dance the tango, or the boogie, or the cha cha on a PJA night of fun and frolics."[15] He further maintains that "it would be an honor for [Hipe] to be invited by her judge to a dance." He categorically declares that he did not invite her to lie in bed with him.

In a Supplemental Motion to Dismiss, he also contends that the statements imputed to him, which allegedly constituted sexual

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[14] Comment, pp. 28-38; *rollo*, pp. 408-418.

[15] Comment, p. 29; *rollo*, p. 409.

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harassment, were equivocal. Thus, the question "When will we make ours?" might have actually referred to the beautiful lanterns and Christmas decors of Branch 24 or even the song number of Branch 25. Again, Hipe might have misconstrued the judge when he asked her, "Are you ready for our date tonight?" The judge at the time could have been referring to the plan of court employees to form a singing group in preparation for his birthday.

According to respondent, Hipe sought a transfer to another court because Judge Vicente Aujero, his predecessor, had caught her and Clerk of Court Flandez "in a compromising situation *in flagrante*" inside a comfort room. Having also discovered that she was keeping immoral relations with the branch clerk of court, a married man, respondent advised her to seek a transfer.

After careful deliberation, the Court agrees with Justice Quimbo that Hipe's allegations were true and that respondent's conduct was unbecoming a judge. He wrote:[16]

"The undersigned is convinced that what Ms. Hipe related in her original affidavit did actually happen. Respondent tried to make a pass at her after learning perhaps that she was fair game having had a history of affairs which, although she vehemently denied them, the undersigned believes did occur. Do these acts of respondent come up to the measure of censurable behavior? It cannot be denied that when these acts complained of allegedly occurred, the Sexual Harassment Law had not yet been enacted, hence respondent is correct in saying that he can not be made answerable under that law. Nevertheless, his conduct was certainly unbecoming a regional trial court judge and with the scandal created by the filing of this complaint, respondent has dimmed to a great extent the prestige of the judicial arm of our government and for this he should be punished."

We are not persuaded by respondent's submission that his assailed statements and actuations were equivocal. True, standing alone, each may admit of an innocent — if strained — interpretation. Undeniable, however, is the manifest sexual undertone in all of them. Taken together, his actions towards

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[16] Quimbo Report, p. 13.

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Hipe for several months leave no doubt that he was indeed soliciting a sexual favor from his subordinate. All these circumstances created an offensive atmosphere that forced Hipe to seek a transfer.

Immaterial to this case is the insinuation of respondent that Hipe was a woman of loose morals, who purportedly bestowed sexual favors quite freely. At issue is not her virtue, but his moral uprightness in dealing with his subordinates. Besides, his estimation of her bolsters the conclusion that he did in fact solicit such favor from her.

In his Motion to Dismiss[17] submitted to the Court on November 26, 1998, respondent alleges that the charge of sexual harassment has prescribed. He points out that Section 7 of RA 7877 provides that "any action arising from the violation of the provisions of this Act shall prescribe in three years." In a Supplemental Motion to Dismiss[18] received by the Court on January 4, 1999, he further avers that there was no law yet against sexual harassment in December 1992 when he allegedly committed the offense, for RA 7877 was approved only on February 14, 1995.

We find this contention utterly bereft of merit. The fact that RA 7877 was not yet in effect at the time does not make his conduct regular or valid. Sexual harassment was not criminal at that time, but neither was it acceptable, as in fact it has never been acceptable.[19] The purpose of this administrative case is not to determine whether he violated RA 7877, but whether by his acts he has remained faithful to the Code of Judicial Conduct. The Code provides that "a judge should avoid impropriety and the appearance of impropriety in all activities." It also mandates

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[17] *Rollo*, pp. 547-558.

[18] *Rollo*, pp. 592-606.

[19] RA 7877 provides that sexual harassment is committed by any person "who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests, or otherwise requires any sexual favor from the other, regardless of whether the demand, request, or requirement for submission is accepted by the object of said act."

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that "a judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary." Thus, the Court has held that "a judge's personal behavior, both in the performance of his duties and in his daily life, be free from the appearance of impropriety as to be beyond reproach."[20]

The records and the findings of Justice Quimbo show that respondent failed to live up to the exacting standards of the judiciary. Over a long period of time, he persistently tried to solicit sexual favors from Hipe, his subordinate. When she refused, he made her working conditions so unbearable that she was eventually forced to transfer to another office. Certainly, no judge has a right to solicit sexual favors from any court employee, even from a woman of loose morals. His conduct indubitably bears the marks of impropriety and immorality.

The insistence of respondent that he did not have sexual intercourse with Hipe does not render his conduct less reprehensible. The Court has recognized that immorality is not based on illicit sexual intercourse alone, *viz.*:

> "[I]mmorality has not been confined to sexual matters, but includes conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity and dissoluteness; or is willful, flagrant, or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude toward good order and public welfare."[21]

In *Ana May Simbajon v. Judge Rogelio Esteban,*[22] the Court dismissed respondent therein on grounds of immorality and violation of the Code of the Judicial Conduct, for his attempt to solicit sexual favors from a subordinate. In that case, respondent told complainant that she would become his girlfriend in exchange

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[20] *Dawa v. De Asa,* AM No. MTJ-98-1144, July 22, 1998; *Yulo-Tuvilla v. Balgos,* 288 SCRA 358 [1998].

[21] *Alfonso v. Juanson,* 228 SCRA 239 [1993]; citing Black's Law Dictionary, 6th ed. (1990), p. 751.

[22] AM No. MTJ-98-1162, August 11, 1999.

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for his signature, and then he kissed her. When he learned that her application had been approved, he told her inside his chambers she was already his girlfriend; and then he embraced her, kissed her, and touched her right breast.

While the misconduct of herein respondent towards Hipe was more indirect, it was just as inexcusable. His protracted assault on her was verbal, not physical, but its effect was the same: it rendered her working condition offensive and unbearable.

Harassment of Other Employees

Madredijo, Caube, Conato and Montanes alleged that respondent began harassing them after learning that they had questioned RAO 10-97 and filed the present administrative Complaint. Madredijo claimed that respondent, without according him the right to be heard, issued an Order on June 16, 1997, reprimanding him for arriving late, spreading false rumors, absenting himself from the physical fitness program, and violating his direct instructions. Further, respondent allegedly gave him a performance rating of "unsatisfactory with four reprimands," although he was an employee of the Office of the Clerk of Court and not of respondent's branch. In addition, respondent allegedly filed before the OCA two administrative cases against him.

Imelda Conato, Stenographer III, also alleged that after they filed the present Complaint, respondent reprimanded her on June 17, 1997, for the habitual tardiness she had allegedly incurred from January 27 to 31, 1997. Vivian Montanes, for her part, averred that respondent, upon learning that she was one of the complainants, revoked her designation as OIC clerk of court of RTC Branch 25. On the other hand, Mamerto Caube, MTC clerk of court, claimed that respondent required him to be the first to arrive at the office and the last to leave. In addition, he was also directed to hold office during Saturday mornings, except the second Saturday of the month.

In his Comment, respondent argues that he was not trying to harass the complainants, for his assailed acts had been done before he received the Court resolution requiring him to comment.

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At the time, he did not yet know about the Complaint, for he had not been served a copy when it was filed.

Regarding the charge of Madredijo, respondent maintains that, as presiding judge, he had the power to discipline employees within his area of responsibility. He further claims that he did not violate the right to be heard, for he gave Madredijo the opportunity to explain his alleged misbehavior. In respect to the performance rating, he explains that he merely reviewed the evaluation made by Clerk of Court Galdo. Respondent decries the allegation of Montanes, who before the filing of the Complaint had questioned the revocation of her designation before the Office of the Court Administrator. He claims that the assailed revocation was subsequently confirmed by the OCA, before which Caube should have challenged his Order, not in this administrative case.

We agree with the finding of Justice Quimbo that "there really is a pattern of harassment" from the time the complainants questioned his issuance of RAO No. 10-97 and initiated this administrative charge. While we laud his effort to instill discipline among the court employees, the charges he brought against the complainants, including "spreading false rumors," seemed too trivial to preoccupy a busy executive judge.

Furthermore, the legal basis of his assailed Orders was, at best, shaky. Specifically, his Order admonishing Conato for habitual tardiness was inconsistent with CSC Memorandum Circular No. 04, s. 1991, which defined the offense as tardiness for "ten times a month for at least two months in a semester or at least two consecutive months during the year." Likewise, his directive to Caube, an MTC clerk of court, to report on most Saturdays was not borne by Circular No. 95-96,[23] which merely empowered executive judges to assign, *by rotation,* MTC *judges* within their respective jurisdiction to report on Saturday mornings, *assisted by a skeletal force, also on rotation.* Nothing in the circular required a clerk of court to be at his post on most

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[23] Dated December 5, 1996.

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Saturdays. These circumstances, taken together, revealed respondent's intention to harass the complainants.

We are not convinced by his claim that he had not known about the Complaints when the alleged acts of harassment were done. As observed by Justice Quimbo, respondent must have learned of the Complaint after it had been sent to the Court, for the filing of an administrative Complaint by thirteen employees could not have been kept a secret for long, especially in a small town like Maasin.[24]

In view of the foregoing, we agree with Justice Quimbo's conclusion that "respondent's acts against Madredijo, Caube, Conato and Montanes [were] clearly motivated by respondent's resentment at their questioning the administrative order that was compelling them to attend the PACE convention as well as sending the letter-complaint of June 9, 1997."

In harassing the complainants who filed the present administrative case, he breached the basic norm that judges should not resent any fair criticism of their public duties.[25] It should be stressed that judges must rise above the pettiness of ordinary human beings. Any attack on their qualifications must be met with the force of sound argument in the proper forum, not with the brute exercise of superior power. In doing otherwise, as in this case, respondent shed the "vestment of propriety," which a judge is called upon to wear at all times.[26]

Conduct Unbecoming a Judge

In a Complaint dated September 7, 1997, Nena Liguid alleged that respondent was "coddling and protecting" Metudio Lili, a fugitive who was facing charges before his sala for the murder of her husband. Respondent allegedly did not exert effort to cause the arrest of Lili, because the former's wife bought the latter's house, which had a market value of ₱2 million, for only

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[24] Quimbo Report, pp. 13-14.

[25] Malcolm, *Legal and Judicial Ethics,* p. 210.

[26] Canon 2, Code of Judicial Conduct.

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₱170,000. Attached to the Complaint were (1) a Special Power of Attorney executed on October 21, 1994 by Metudio and Nida Lili, authorizing Sergio Lili to sell their house to respondent's wife; and (2) a Deed of Absolute Sale dated October 27, 1994, in which Sergio Lili as attorney-in-fact conveyed the aforesaid realty to respondent's wife.

In his Comment, respondent denied that he had coddled and protected Lili, but admitted that his wife had entered into a contract of sale with Metudio Lili's attorney-in-fact.[27] Adopting as his own the documents attached to the Complaint, he maintains that the sale was above board. He also contends that the purchase price was not undervalued, for the house was in a state of disrepair at the time of the sale. As he had no direct participation in the negotiations, he claims that the transaction was effected by his wife at her own initiative using her retirement benefits. He knew only that the vendor was his wife's former neighbor, but not that the latter had a pending murder case before his sala. After all, Lili's case had been archived by then Judge Lucio Saavedra in 1988, or prior to respondent's appointment as judge in 1992. Lili was only one of the several persons whose cases had been archived before his court, and he could not have associated him with the seller of the house.

Respondent further denies extending special treatment to Lili, because the records show that he has already issued three *alias* warrants of arrest. He has also communicated with Liguid asking her to inform the RTC of the whereabouts of her husband's killers, if she knew. Finally, he argues that Liguid's Complaint should not be considered by the Court, because it has not been subscribed.

In his Report, Justice Quimbo concluded that there was "no sufficient evidence to support Liguid's charge."[28]

We are not entirely convinced. True, there was no clear showing that respondent gave Lili special treatment, or that the

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[27] Comment, pp. 50-51.

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purchase price was manifestly low. The *alias* warrants of arrest showed that respondent exerted an effort to cause the apprehension of Lili. Moreover, no evidence was presented to buttress Liguid's charge of purchase price undervaluation. Nonetheless, the records clearly show respondent's misconduct, for he knew and should have known about the transaction *and* the identity of the vendor who was facing charges before his court.

The Court cannot ignore Liguid's Complaint on the ground that it was unsubscribed.[29] As earlier noted, respondent himself admitted that there was a sale, and adopted as integral parts of his Comment the Deed of Absolute Sale and the Special Power of Attorney issued by Metudio Lili in favor of Sergio Lili.[30]

The business dealings of a judge are governed by the Code of Judicial Conduct, which provides that "a judge should regulate extra-judicial activities to minimize the risk of conflict with judicial duties."[31] Rule 5.02 specifically prescribes that "a judge shall refrain from financial and business dealings that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities, or increase involvement with lawyers or persons likely to come before the court. x x x."

Respondent claims that he did not know that the vendor had a pending case before his sala; besides, the buyer was his wife, not he. These excuses and ratiocinations are not convincing.

It should be underscored that the purchase of Lili's house was not an ordinary transaction, because it involved a significant shift in respondent's lifestyle previously characterized as "renting and bedspacing unbecoming of a judge."[32] For this reason, it is

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[29] *Gutierrez v. Belan,* AM No. MTJ-95-1059, August 7, 1998; *Anonymous v. Geverola*, 279 SCRA 279 [1997].

[30] At this point, it should be noted that the Office of the Court Administrator's September 18, 1998 Memorandum mentioned that these documents were "*prima facie* evidence of grave misconduct committed by respondent." (*Rollo*, p. 497.)

[31] Canon 5.

[32] Respondent's Comment, p. 47; *rollo*, p. 427.

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unthinkable for respondent to have left the negotiations solely in the hands of his wife, a layperson. In fact, the Deed of Absolute Sale was notarized by the clerk of court of the RTC, thereby showing that the judge should have at least known that his wife was about to buy a house.

Furthermore, it behooved respondent to ask for the identity of the sellers. A reasonable man would ordinarily wonder why the principal, who was his wife's former neighbor, had to be represented by an attorney-in-fact. Since Maasin was not a big metropolis and respondent had been assigned there for at least two years at the time of the sale, a reasonable modicum of caution would have surely alerted him that the vendor was a fugitive facing murder charges before his sala.

Moreover, he was duty-bound as a judge to acquaint himself with the cases pending before him. The fact that the murder case had been archived in 1988 before his appointment in November 1992 was not an excuse. The sale was consummated in October 1994, and respondent had two years from the date of his appointment to familiarize himself with the archived cases. Furthermore, his case load at its heaviest was not more than two hundred, a number that could not have deterred him from doing so. More significant, before the sale in October 1994, respondent had already issued and *signed* two *alias* warrants for the arrest of Metudio Lili, the first one on April 30, 1993 and the second on March 10, 1994.[33]

We are convinced that respondent knew about the transaction *and* the identity of the seller. Although he knew that the transaction might "reflect adversely on [his] impartiality," he exerted no effort to dissuade his wife. Indeed, he did not abide by his mandate that he should be "scrupulously careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in determining his judicial course."[34]

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[33] Annex "B", respondent's Manifestation and/or Motion; *rollo*, p. 275.

[34] Canon 30, Canons of Judicial Ethics; Malcolm, *Legal and Judicial Ethics*, pp. 210-211.

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More than this, however, the circumstances of this case show that naming his wife as the vendee was merely a convenient ploy to circumvent the Code of Judicial Conduct, which prohibits judges from entering into financial transactions with litigants before their sala. This Court cannot allow the subterfuge. In allowing his wife to enter into a contract of sale, although he knew and should have known that the vendor had a pending case before him, he effectively violated the proscription.

Gross Ignorance of the Law

In their Complaint dated July 8, 1997, complainants also charged respondent with gross ignorance of the law, for having allegedly rendered two erroneous Decisions in a civil and criminal case.[35] In connection with Civil Case No. R-2706, they alleged that respondent's Decision voided the marriage under Article 36 of the Family Code, although the Complaint prayed only for legal separation, support *pendente lite* and administration of property. They also maintain that even the defendant's Answer in the civil case did not invoke Article 36.

A reading of the Decision in that case shows the frivolity of this charge. The parties' Memoranda, both of which were extensively quoted in respondent's March 3, 1994 Decision, show that evidence was presented and arguments were raised on the issue of psychological incapacity. Even assuming that this issue was not mentioned in the pleadings, it is deemed to have properly been raised, because it was tried with the implied consent of the parties.[36] Indeed, the Memorandum of the plaintiff

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[35] In his Motion to Dismiss, respondent stated that there were only four remaining charges against him; that is, the four charges that were referred to Justice Quimbo for investigation and report. Evidently, respondent misread the October 21, 1998 Resolution of the Court. Nothing in said Resolution can be interpreted to mean that the Court dismissed the charge of gross ignorance of the law, which we shall now discuss.

[36] Section 5, Rule 10 of the pre-1997 Rules of Court, provides that "[w]hen issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. x x x." This was substantially retained in the 1997 amendments.

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offered no objection to the other party's "desperate *attempt* to prove his counterclaim of psychological incapacity," focusing its argument instead on the *sufficiency* of the evidence on this point.[37] Assuming further that respondent judge erred in considering this issue, the remedy of the parties was judicial, through a timely appeal, not the present administrative action. Significantly, the parties in the civil case did not join the complainants in this administrative proceeding.

The complainants further contend that the trial court erred, because an action to declare a marriage void under Article 36 of the Family Code prescribes in ten years after its celebration. This argument is utterly unmeritorious. Article 39 of the Family Code specifically provides that "in the case of marriages celebrated before the effectivity of this Code and falling under Article 36, such action or defense shall prescribe in ten years after this Code shall have taken effect." Since the marriage was celebrated in 1982 before the effectivity of the Family Code, the claim of psychological incapacity had not yet prescribed when it was raised in 1992 and when the trial court rendered its Decision in 1994.

Most important, there was no showing of any bad faith or malice on the part of respondent judge.

The Court has repeatedly held that a judge may not be held administratively liable for every erroneous decision he renders, for no person called upon to determine the facts or interpret the law in the administration of justice can be infallible. The Court declared long ago that "the duty to deliberate does not impose the obligation to decide right."[38] All that is expected of a judge is that "he follow the rules prescribed to ensure a fair and impartial hearing, assess the different factors that emerge therefrom and bear on the issues presented, and on the basis of the conclusions he finds established, adjudicate the case

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[37] Decision in Civil Case No. R-2706, p. 8; Annex "C" to the July 8, 1997 Complaint; *rollo*, p. 97.

[38] *Edwards v. McCoy*, 22 Phil. 598, 601 [1912].

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accordingly."[39] Thus, it has been held that the "error must be gross or patent, deliberate and malicious, or incurred with evident bad faith; it is only in these cases that administrative sanctions are called for as an imperative duty of the Supreme Court."[40] The firmly established principle is that a judge may not be administratively charged for mere error of judgment, in the absence of a showing of any bad faith, malice or corrupt purpose.[41] There was no such showing in connection with Civil Case No. R-2706.

Be that as it may, respondent should be censured in connection with his Decision in Criminal Case No. R-4242, the decretal portion of which reads in part: "the decision appealed from is AFFIRMED, with the modification that the proper sentence, considering the applicability of the Indeterminate Sentence Law, and there being no aggravating or mitigating circumstances to modify it, should be an indeterminate penalty of TWENTY (20) DAYS of *arresto menor* medium as minimum to TWO (2) MONTHS of *arresto mayor* minimum as maximum." In that case, respondent applied the Indeterminate Sentence Law, although the maximum term of imprisonment did not exceed one year.

It is a well-settled rule that "when the law is elementary, so elementary, not to know it constitutes gross ignorance of the law."[42] In another case, the Court held that unfamiliarity with the application of the Indeterminate Sentence Law was censurable.[43]

In sum, we hold respondent administratively liable, because he tried to solicit sexual favors from Hipe, allowed the purchase

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[39] *In Re: Tayao,* 229 SCRA 723 [1994].

[40] *In Re: Joaquin Borromeo,* 241 SCRA 408 [1995].

[41] *In Re: Tayao, supra.*

[42] *Agcaoili v. Ramos,* 229 SCRA 705 [1994].

[43] *Felongco v. Dictado,* 223 SCRA 696 [1993]; *In Re: Jose Paulin,* 101 SCRA 605 [1980].

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by his wife of a house belonging to a fugitive facing charges before his sala, harassed employees who complained about his acts, and wrongly applied the Indeterminate Sentence Law. Respondent's actions breached the fundamental responsibilities of a judge to be the embodiment of competence, integrity and independence; to avoid impropriety and the appearance thereof in his public and private activities; and to promote public confidence in the integrity and impartiality of the judiciary. Being the subject of unrelenting public scrutiny, a judge should willingly accept restrictions on his conduct that an ordinary citizen would view as burdensome.[44]

Indeed, a judge — more than of any other person — ought to behave, in both the performance of official duties and in private life, in a manner that is above suspicion. We reiterate that "[t]he judiciary as a whole and its ability to dispense justice are inevitably measured in terms of the public and private acts of judges x x x. It is essential therefore, if the judiciary is to engage and retain the respect and confidence of our nation, that this Court insist that municipal judges and all other judges live up to the high standards demanded by our case law and the Code of Judicial Conduct and by our polity."[45] We are aware that he has twice been a finalist in the Awards for Judicial Excellence. Sadly, however, the foregoing disquisition reveals the indelible stains on his judicial robe. He is no longer a worthy member of the bench.

WHEREFORE, Respondent Leandro T. Loyao is hereby *DISMISSED* from the service, with forfeiture of all retirement benefits and leave credits and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

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[44] *Padilla v. Zantua,* 237 SCRA 670 [1994].

[45] *Junio v. Rivera,* 225 SCRA 688 [1993]. See also *Talens-Dabon v. Arceo,* 259 SCRA 354 [1996].

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SO ORDERED.

Melo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *Ynares-Santiago, JJ.,* concur.

Davide, Jr., C.J., Bellosillo, and *Kapunan, JJ.*, abroad on official business.

SECOND DIVISION

[A.M. No. RTJ-99-1496. October 13, 1999]

EDESIO ADAO, *complainant, vs.* **JUDGE CELSO F. LORENZO, Regional Trial Court, Branch 1, Borongan, Eastern Samar,** *respondent.*

SYNOPSIS

This is a complaint filed against Judge Celso F. Lorenzo of the Regional Trial Court of Borongan, Eastern Samar, in connection with his issuance of a temporary restraining order (TRO) in Civil Case No. 3391. Civil Case No. 3391 is a complaint for injunction filed by his defeated opponent (Naputo) as Barangay Captain against herein complainant, to prevent him from being elected president in the elections for officers of the Association of Barangay Captains of the Municipality. The case was assigned by special raffle to Branch 2 of the RTC of Borongan, Eastern Samar to which respondent judge had been designated as Acting Presiding Judge. The herein administrative complaint charged that, in issuing the TRO, respondent judge acted in violation of Supreme Court Administrative Circular 20-95 as the temporary restraining order was issued by him without notice to complainant and a summary hearing and in