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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.M. No. MTJ-95-1053. January 2, 1997]

SPOUSES MAKADAYA SADIK and **USODAN SADIK**, *complainants, vs.* **JUDGE ABDALLAH CASAR**, *respondent.*

SYLLABUS

1. **JUDICIAL ETHICS; JUDGES; PERSONAL INTEGRITY AND HONESTY, INDISPENSABLE QUALIFICATIONS FOR JUDICIAL OFFICE.**— Courts exist to dispense and to promote justice. However, the reality of justice depends, above all, on the intellectual, moral and personal quality of the men and women who are called to serve as our judges. Indeed, to be effective in his role, a judge must be a man of exceptional integrity and honesty. The special urgency for requiring these qualities in a judge is not hard to understand for the judge acts directly upon the property, liberty, even life, of his countrymen. Hence, being in a position of such grave responsibility in the administration of justice, a judge must conduct himself in a manner befitting the dignity of such exalted office.

2. **ID.; ID.; UNAUTHORIZED PRIVATE PRACTICE, MISAPPROPRIATION AND SUBORNATION OF PERJURY WARRANT DISMISSAL.**— The records show that even after he became judge, respondent acted as counsel for herein complainants and misappropriated the judgment award of P30,000.00 which rightfully belongs to complainants. Moreover, respondent's line of defense revealed a significant and deplorable flaw in his character. In hoping to redeem himself, he categorically admitted that he deliberately, knowingly and willfully agreed to handle a case involving a fraudulent insurance claim and in the process procured and presented false witnesses in court. Under the circumstances, this Court is amazed at how brazen respondent has comported himself and without compunctions at leaving a "paper trail" behind him. This Court notes that respondent had

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been previously fined P5,000.00 and sternly warned for knowingly issuing an order without jurisdiction and with grave abuse of discretion. Moreover, he has four other administrative cases docketed against him involving various charges such as gross ignorance of the law, gross incompetence, illegal possession of firearms and ammunitions and falsification of public documents. Respondent judge's seeming propensity to transgress the very law he is sworn to uphold makes him unfit to discharge the functions of a judge. Judicial office demands the best possible men and this Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards effective and efficient administration of justice, thus tainting its image in the eyes of the public. Wherefore, Judge Abdallah M. Casar is hereby DISMISSED from the service for misconduct and misappropriation with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. He is further ordered to turn over to complainant Makadaya Sadik and Linang Minalang the sum of Thirty Thousand Pesos (P30,000.00) which he received from the Clerk of Court of RTC, Branch 13, Cotabato City last October 1, 1993.

D E C I S I O N

PER CURIAM:

The case before us stemmed from a verified complaint filed by Spouses Makadaya and Usodan Sadik charging Judge Abdallah Casar, Municipal Circuit Trial Court of Kolambugan-Tangcal, Lanao del Norte with misconduct and misappropriation.

Judge Casar filed his answer dated February 28, 1995 averring that the complaint is merely for harassment and intended to ruin his reputation.

In the resolution of August 14, 1995, this Court referred this case to Executive Judge Valerio M. Salazar of the Regional Trial Court of Iligan City and Lanao del Norte, Branch 6 for investigation, report and recommendation.

In his Report and Recommendation dated November 25, 1995, the Investigating Judge made the following findings:

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"The basic facts are not in dispute, to wit:

1. On February 14, 1985, one Lekiya Paito filed an application for life insurance with the Great Pacific Life Assurance Corporation (Grepalife) in Cotabato City, Exh. 5. The application was approved and Policy No. 0503033 was issued in her name for the amount of P30,000.00 with an accidental death benefit rider. Named as beneficiaries were her daughters, Linang Minalang and Makadaya Sadik. She paid the initial premium of P410.00.

2. On October 12, 1985, Lekiya Paito died in Pagayawan, Tamparan, Lanao del Sur.

3. The beneficiaries and/or through their representatives sought for and obtained the assistance of respondent, who was then a trial attorney of the Bureau of Forest Development, Cotabato City, to pursue the approval of their claim for payment of the insurance benefits with Grepalife. Respondent made the necessary follow-ups but in due course Grepalife denied the claim on the grounds of misrepresentation and concealment.

4. On October 10, 1986, respondent, as counsel for the beneficiaries, filed a complaint in the Regional Trial Court, Br. 13, Cotabato City which was docketed therein as Civil Case No. 2747 entitled: 'Makadaya L. Sadik and Linang Minalang, plaintiffs versus Great Pacific Life Assurance Corporation, defendant' for Specific Performance.

5. On November 17, 1989, the Regional Trial Court rendered a decision in favor of plaintiffs and against the defendant ordering the latter to pay to the former the sum of P30,000.00 as 'benefit due them under Insurance Policy No. 503033.' The court denied plaintiffs' claim for double indemnity of P60,000.00 under the accidental death rider. At this time, respondent was already the Presiding Judge of the 5th Municipal Circuit Trial Court of Kolambugan-Maigo (now, MCTC of Kolambugan-Tangcal), having assumed such office on September 1, 1989, Exh. 7.

6. Upon receipt of the decision, respondent as counsel for plaintiffs filed a notice of appeal to the Court of Appeals even as defendant likewise filed an appeal. Respondent represented the plaintiffs in the appeal. On September 22, 1992, the Court of Appeals affirmed in toto the decision of the lower court. Defendant elevated the case on petition for review to the Supreme Court which dismissed the petition.

7. After the dismissal of its petition by the Supreme Court, Grepalife filed a Manifestation dated 6 July 1993 with the Regional Trial Court,

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Br. 13, Cotabato City declaring its willingness to pay the judgment award and depositing with said court RCBC check No. 62837 in the amount of P30,000.00 payable to the plaintiffs. Copy of the manifestation was furnished to 'Atty. Abdallah M. Casar, Counsel for the Plaintiffs, Kolambugan, Lanao del Norte' (pp. 44 & 55, Records).

8. On October 1, 1992, respondent collected the check from the Clerk of Court of the Regional Trial Court, Br. 13, Cotabato City and thereafter cashed it.

9. Respondent did not deliver the said money judgment to the plaintiffs.

10. On January 26, 1995, complainants filed their administrative complaint.

Respondent admitted that he retained the sum of P30,000.00 representing the judgment award in Civil Case No. 2747 and that he did not deliver it to the plaintiffs. He interposes the following defenses:

1. He is not guilty of any misconduct because he accepted the case long before he became a judge;

2. He did not misappropriate the money he collected from the court. It is intact but he has the right to retain the amount of P30,000.00 until he is paid his expenses pursuant to Section 137, Rule 138 on attorney's lien;

3. The complainant, Makadaya Sadik is not the real Makadaya Sadik, plaintiff in Civil Case No. 2747 and being an impostor she is not entitled to the money.

There is no dispute that when respondent agreed to file the complaint in behalf of Makadaya Sadik and Linang Minalang, he was not yet a member of the judiciary. He was a trial attorney of the Bureau of Forest Development. He claimed that he was authorized to engage in practice in behalf of relatives but presented no documentary authority. He continued to represent the plaintiffs in Civil Case No. 2747 when he joined the Citizens Legal Assistance Office in a private capacity. In fact he took pains to emphasize that he handled the case not as a CLAO lawyer (tsn, p. 39; 11-13-95) although in his notices of change of address, he gave his new addresses as follows: 'Atty. Abdallah M. Casar, CLAO, Capitol, Pigcarangan, Tubod, Lanao del Norte' Exh. 10 and 'CLAO, Kabacan District Office, Municipal Hall Bldg., Kabacan, Province of Cotabato' Exh. 11. (pp. 119-120, Records). Similarly in his Memorandum dated 24 October 1988, he signed as 'Attorney for

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Plaintiffs, CLAO, Kabacan, Cotabato,' Exh. B (pp. 89-96, Records). In those instances, while he was actually prosecuting the case in his private capacity, he gave the impression that he was handling the case for the CLAO. By his own admission, he was engaged in a private practice while employed as trial attorney with the BFD and citizen's attorney with the CLAO. He failed to produce proof of authority. But as he correctly states, those were acts performed before he joined the judiciary. However, he failed to mention that even after he became a municipal judge, he continued to act as counsel for the plaintiffs in Civil Case No. 2747 on appeal to the Court of Appeals and the Supreme Court. He assumed office on September 1, 1989. The decision of the Regional Trial Court was rendered on November 17, 1989. He filed an appeal in behalf of the plaintiffs even as Grepalife also appealed. He testified:

'Q. After that what happened?

A. The case' decision was affirmed by the Court of Appeals and eventually appealed again to the Supreme Court where I made several manifestations.' (tsn, p. 36; 11/13/95).

He actively handled the case on appeal. He violated Rule 5:07 of the Code of Judicial Conduct which states that 'A judge shall not engage in the private practice of law.' He reasoned out that he was forced to continue as counsel for the plaintiffs because he failed to get in touch with them after he received the decision of the lower court. He even went to Davao to look for them but failed. A transparent and flimsy justification. At that time he was stationed in Kolambugan, Lanao del Norte. He knew that plaintiffs are from Pagayawan, Tamparan, Lanao del Sur. He is himself a native of Tatayawon, Tamparan. He could have easily went to his hometown or sent someone there to get in touch with plaintiffs. He did not have to go to Davao which is much further from Kolambugan than Tamparan. At any rate failure to contact his clients is not reason enough to continue as counsel for plaintiffs on appeal. The least which he should have done was to secure permission from the Supreme Court before proceeding with the case on appeal.

He also denies having converted and misappropriated the judgment award of P30,000.00. He claims the amount is intact but he has the right to retain the same until he is paid for his expenses pursuant to Sec. 37, Rule 138 of the Rules of Court. He declared:

'A. They failed to come and for all these, I estimated my expenses to be more than Thirty Thousand (P30,000.00) Pesos.

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Q. What is your right in getting the amount of P30,000.00?

A. Well, pursuant to Rule 138, Section 37 of the Rules of Court known as attorney's liens by virtue of that I have the right to retain the amount until payment of my expenses was paid x x x' (sic) (tsn, pp. 38-39; 11/13/95).

This is ridiculous. The judgment award is only P30,000.00 but he spent more than P30,000.00 to recover it. Thus despite winning the case, the client could not collect a single cent and will still have to pay his lawyer. This may be one reason why the ordinary layman holds an unflattering perception of lawyers.

His evidence fails to prove the amount of expenses claimed by him. He said that to follow-up the claim, he went to Manila six times spending for fare alone P3000.00 for each trip. When the case was on appeal to the Supreme Court, he went to Manila to follow-up thrice (tsn, p. 38; 11/13/95). Except for his uncorroborated testimony, there are only two documents showing he was indeed in Manila. Those are Exhs. 26 and 32 indicating that he personally served those letters to Grepalife in Manila. But there is no evidence that he went there for this purpose alone. It is highly probable that the visit to Grepalife was merely one of his purposes in going to Manila. On the other hand, his claim that he went to Manila three times to follow-up the case while it was pending with the Supreme Court is unworthy of credence. He was then already a municipal judge. He could not have openly exposed himself to the Supreme Court as being engaged in private practice. Besides there is no reason to follow-up in person any case with the Supreme Court. Similarly, his claims that he spent a lot of money in looking for witnesses and trying to trace the whereabouts of his clients are self-serving, devoid of corroboration and unsupported by document evidence. Finally, he presented the receipts for the payment of docket fees in the amount of P580.00, Exhs. 28 and 29, which he alleges was paid by him out of his own pocket. Standing alone, those receipts do not prove his claim. The normal practice is for the client to advance to his lawyer the amount for the filing fees. It is the lawyer who pays the docket fees and he can easily procure the issuance of the receipts in his own name. Complainant Makadaya Sadik declared that her husband took care of the payment of the docket fees. Respondent did not cross-examine Usodan Sadik on this point.

In sum, respondent failed to show by clear and convincing evidence that he did indeed spent more than P30,000.00 to prosecute the insurance claim. His various claims of expenses for travels to Manila, to find

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witnesses and to look for his clients are all designed to inflate his demand for reimbursement and justify his withholding of the judgment award from his clients. To be generous, the sum of P6,000.00 corresponding to his trips to Manila in March and May, 1986 may be allowed. Added to that may be his claim for attorney's fees, although to be generous again, he is not really entitled to it. From the testimonies of both Usodan Sadik and respondent, it appears that there was an agreement for the payment of P10,000.00 if respondent succeeds in recovering the sum of P60,000.00 under the accidental death rider. But this amount was not obtained and only the basic claim of P30,000.00 was adjudged by the court. It is logical to assume that in such case, the amount of attorney's fees should also be proportionally reduced to P5,000.00. Thus his total claim is not more than P11,000.00. Nonetheless, it appears that his reliance on Section 37, Rule 138 of the Rules of Court is nothing more than an afterthought. If indeed, he was claiming attorney's lien pursuant to said section, then he should have known that to be entitled thereto he must comply with certain pre-conditions. Said section provides that with respect to judgments for payment of money, like in Civil Case No. 2747, a lawyer shall have a lien thereto 'from and after the time when he shall have caused a statement of his claim of such lien to be entered upon the records of the court rendering such judgment x x x and shall have caused written notice thereof to be delivered to his client and the adverse party.' From July, 1993 when he learned of the dismissal of Grepalife's petition by the Supreme Court until now, he did not file the necessary pleadings to enforce his alleged lien. It surfaces only when the administrative case was filed.

His last line of defense is that the complainant Makadaya Sadik is not the real Makadaya Sadik who is the beneficiary of Lekiya Paito and plaintiff in Civil Case No. 2747. He declared:

"A. As far as I know they were recruited as witnesses.

COURT:

Q. You said 'they, are you referring to Usodan Sadik and Makadaya Sadik?

A. Yes, Your Honor, because of the failure of the beneficiaries to come to Court.

COURT: Proceed.

Judge Casar:

Q. Do you have any evidence for that, that Makadaya Sadik or referring to these persons who are complainants, Usodan Sadik

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and Makadaya Sadik were recruited to testify in this case, but these are not the true complainants?

A. Yes.

Q. Who recruited them?

A. The claimants.' (tsn, pp. 21-22; 11/13/95).

xxx xxx xxx

COURT: WHO FAILED TO APPEAR?

A. Makadaya Sadik and Linang Minalang despite notice. The claimants failed to appear and procured another persons (sic) who are impostors. This Kunug Minalang and Sadik Paito took charge of the witnesses and they presented another witnesses (sic).

COURT: I DO NOT UNDERSTAND THIS. ANOTHER WITNESSES OR ANOTHER PERSON WAS PRESENTED TO TESTIFY AS LINANG MINALANG AND SADIK?

A. At that time we needed more witnesses so the parties and Barogong Paito agreed to testify but two persons who are principal witnesses failed to come.

COURT: SO WHEN THEY FAILED TO COME, WHAT DID SADIK PAITO DO?

A. They took charge of presenting another witnesses (sic).

Q. WHAT DO YOU MEAN BY 'TOOK CHARGE,' YOU MEAN, THEY PRESENTED TO YOU PERSONS WHO WERE NOT REALLY LINANG MINALANG AND MAKADAYA SADIK?

A. They told me that instead of them who could not go to court, they faked another persons (sic).

Q. AND THESE PERSONS WHO WERE FAKED APPEARED AND TESTIFIED AS LINANG MINALANG AND MAKADAYA SADIK?

A. As a matter of fact, only Makadaya Sadik took the stand because Linang Minalang failed to come.

Q. MAKADAYA SADIK TESTIFIED IN COURT?

A. In reality, Makadaya Sadik failed to appear also.

Q. BUT SOMEBODY TESTIFIED AS IF HE IS MAKADAYA SADIK?

A. Yes.

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Q. I WANT THIS VERY CLEAR, HADJI SARIP PAITO PRESENTED TO YOU ANOTHER PERSON WHO CLAIM TO BE MAKADAYA SADIK BUT HE IS REALLY NOT MAKADAYA?

A. Yes.

Q. AND THAT PERSON WHO ACTUALLY TESTIFIED CLAIMING TO BE MAKADAYA SADIK WAS THE PERSON WHO TESTIFIED THE LAST TIME AS MAKADAYA SADIK?

A. That is what I can recall.

COURT: PROCEED.

Judge Casar:

Q. What was the arrangement for that matter for the recruitment of other substitute witnesses?

A. Well, I told my client, I have to give them Five Thousand (P5,000.00) pesos.

COURT: TO WHOM WILL THE P5,000.00 BE PAID?

A. To the substitute witnesses.

Q. YOU TOLD SARIP PAITO AND KUNUG MINALANG THAT THESE WITNESSES BE PAID P5,000.00?

A. Yes.

Q. DID THEY AGREE?

A. I presume so because they testified.

Q. KUNUG MINALANG AND SARIP PAITO AGREED THAT THE P5,000.00 BE PAID TO THE SUBSTITUTE WITNESSES?

A. Seems to me that they agreed.' (tsn, pp. 34-36; 11/13/95).

By his own categorical admission, he deliberately, knowingly and willfully agreed to procure a substitute witness, an impostor, to pose as claimant Makadaya Sadik and testify in Civil Case No. 2747. He even proposed that such witness be paid P5,000.00. And he actually presented such witness as Makadaya Sadik in that case and that impostor is the Makadaya Sadik who is the complainant in this case. She is, respondent says, the step-daughter of Lekiya Paito, the daughter of Batobarani Lugpangan and another woman (tsn, p. 17; 11/13/95). By any language, this is subornation of perjury.

To make matters worse, he declared that even before he filed the complaint in Civil Case No. 2747, he was already informed that the insurance policy of Lekiya Paito was fraudulent. Thus:

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'Q. What else happened?

A. Naga Datumanong approached me and told me about the facts of the case and that this was done by unscrupulous persons.

COURT: WHAT WAS DONE BY UNSCRUPULOUS PERSONS?

A. The insurance application of Lekiya Paito, in fact, at the time of the insurance, Lekiya Paito was killed in her hometown.

COURT: YOU MEAN LEKIYA PAITO WAS ALREADY SICK WHEN THE INSURANCE FORM WAS MADE?

A. Yes, she was sick in Pagayawan, not in Cotabato City.

Judge Casar: So, whose work is that insurance.

A. As far as I know, that is the work of Usodan Hadji Ibrahim.

COURT: THIS USODAN HADJI IBRAHIM IS NOT THE PERSON NOW IN COURT?

A. As far as I know, he is Usodan Ibrahim.

Q. IN OTHER WORDS, THIS IS OR THE PERSON WHO APPEARED AS COMPLAINANT IS ACTUALLY USODAN IBRAHIM?

A. As far as I know, he is not working with me.

Q. SO THAT THIS PERSON NAMED USODAN SADIK, ONE OF THE COMPLAINANTS, IS ACTUALLY USODAN IBRAHIM?

A. Yes.

Q. AND YOU NOW CLAIM THAT USODAN IBRAHIM WAS THE ONE WHO PREPARED THE FRAUDULENT POLICY FOR LEKIYA PAITO?

A. As far as I was told.' (tsn, pp. 30-31; 11/13/95).

Yet knowing that the insurance claim was fraudulent, he filed the complaint and compounded it by presenting false witnesses in court. He transgressed not only the Canons of Professional Ethics but also the Revised Penal Code. In his single-minded intent to keep the insurance proceeds for himself and deprive complainant Makadaya Sadik of her share, respondent dug a deep hole for himself. His cure is worse than the disease.

It is possible that the insurance taken for Lekiya Paito was indeed a scam. It is not an uncommon occurrence in these parts to insure a person who is near death or for an insured to fake his death and collect the proceeds. But scam or not we are convinced that the complainant

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Makadaya Sadik is not an impostor. She denied that she is the step-daughter of Lekiya Paito. She insisted she is the youngest daughter and she named all her brothers and sisters. And it was respondent who presented her in Civil Case No. 2747 as Makadaya Sadik daughter of Lekiya Sadik and one of the beneficiaries of the latter's insurance policy."

The Investigating Judge then recommended that a penalty ranging from a fine of twenty thousand (P20,000.00) pesos to suspension for six (6) months be imposed depending on respondent's record. Respondent was likewise ordered to pay to herein complainant, Makadaya Sadik, the sum of fifteen thousand (P15,000.00) pesos less the sum of five thousand five hundred (P5,500.00) pesos equivalent to one-half of the expenses and attorney's fees demanded by respondent.

In the resolution of March 13, 1996, this Court referred this case to the Office of the Court Administrator for evaluation, report and recommendation.

In its memorandum of August 15, 1996, the Office of the Court Administrator made the following findings and evaluation:

"The undersigned concurs with the finding of Executive Judge Salazar that respondent be found guilty of the charges of misconduct and misappropriation, but differs insofar as the recommended penalty is concerned. It is an established rule that the personal behavior of a member of the judiciary in the performance of his official duties and in his everyday life should be beyond reproach. Respondent's act of collecting the judgment award of P30,000.00 from the Clerk of Court of RTC, Cotabato City and his refusal to turn over the amount to his client, complainant Makadaya Sadik and her sister, is an act of misappropriation amounting to gross misconduct and/or dishonesty. His defense that he has the right to retain the entire P30,000.00 as attorney's lien in unacceptable. For he has no right to retain the judgment award allegedly to secure payment of litigation expenses and attorney's fees. He had no authority to practice law while in government service. In continuing to handle the case of herein complainants against Grepalife after he joined the government and without first securing proper authority is no less constitutive of abuse of authority. Furthermore, he violated Rule 5.06 of the Code of Judicial Conduct which prohibits a judge to engage in the private practice of law. He likewise violated the Attorney's Oath in agreeing to file Civil Case No. 2747 for the purpose

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of claiming the insurance proceeds from Grepalife despite his having been informed that the insurance policy of Lekiya Paito was fraudulently applied for. Agreeing to handle the claim said to have arisen from a fraudulent act against the insurer certainly speaks of a moral flaw in his character.

This Court has held that: 'A judge should always be a symbol of rectitude and propriety, comporting himself in a manner that will raise no doubt whatsoever about his honesty x x x. He should ever strive to preserve the good name of the court on which he sits and avoid any indiscretion that will defile its probity. The respondent has not lived up to these exacting standards. He has betrayed his oath and debased his position. He has impaired the image of the Judiciary to which he owes the duty of loyalty and obligation to keep it at all times above suspicion and worthy of the people's trust. No less importantly, he has also injured the herein complainant, who has yet to receive the money entrusted to the respondent for the satisfaction of the judgment that became final and executory more than three years ago.' (Dr. Ernesto J. Yuson *vs.* Judge Federico V. Noel, AM No. RTJ-91-762, 1 October 1993).

Records show that in MTJ-92-728 filed by Mayor Perlita Libardos against herein respondent judge for gross ignorance of the law, grave misconduct, etc. he was fined P5,000.00 and sternly warned. He has still five (5) other administrative cases docketed against him namely: 1) MTJ-95-1048, for gross ignorance of the law, gross incompetence, violation of Section 7, 15 and 17 of Rule 37 of the New Comelec Rules of Procedures, etc.; 2) 95-1061 for Illegal Possession of Firearms and Ammunitions; 3) OCA-IPI No. 95-59-MTJ for Gross Ignorance of the Law, Gross Incompetence; and 4) OCA IPI No. 95-59-MTJ for Falsification of Public Documents. The first two (2) cases are pending investigation by the Executive Judge while the two (2) others are now pending with the Court with respondent's Comment dated 29 November 1995 and 7 December 1995 and pending evaluation by this Office, respectively.

It is clear from the facts established that respondent does not deserve to remain in the service of the Judiciary where honesty, probity and integrity are indispensable credentials."

It then recommended:

"Respectfully submitted for the consideration of the Honorable Court is our recommendation that: a) Judge Abdallah M. Casar, MCTC

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Kolambugan-Tangcal, Lanao del Norte be DISMISSED from the service with prejudice to his appointment to any position in the government, including government-owned or controlled corporations, and with forfeiture of all retirement benefits except his accrued leave credits; and b) he be ORDERED to turn over to complainant Makadaya-Sadik and Linang Minalang (co-plaintiff in Civil Case No. 2747) the sum of Thirty Thousand Pesos (P30,000.00) which he received from the Clerk of Court of RTC, Branch 13, Cotabato City last 1 October 1993 within fifteen (15) days from receipt of notice."

The Court has thoroughly studied the record of this case and has ascertained that the findings of the investigating judge, concurred in by the Office of the Court Administrator, are adequately supported by the evidence and are in accord with applicable legal principles. Consequently, the Court hereby adopts the OCA's recomn ndation of meting out the supreme penalty of dismissal on herein respondent judge.

It must be borne in mind that courts exist to dispense and to promote justice.[1] However, the reality of justice depends, above all, on the intellectual, moral and personal quality of the men and women who are called to serve as our judges.[2] In a piece written by Rosenberg, this point was emphasized, thus:

"Justice is an alloy of men and mechanisms in which, as Roscoe Pound remarked, men count more than machinery.' Assume the clearest rules, the most enlightened procedures, the most sophisticated court techniques; the key factor is still the judge. In the long run, 'There is no guarantee of justice except the personality of the judge.' The reason the judge makes or breaks the system of justice is that rules are not self-declaring or self-applying. Even in a government of laws, men make the decisions."[3]

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[1] Edmelinda L. Fernandez *v.* Judge Fausto H. Imbing, Administrative Matter No. RTJ-96-1356, August 21, 1996.

[2] Jones, "The Trial Judge — *Role Analysis and Profile, in the Courts, the Public and the Law Explosion,*" Readings on Recruitment and Selection of Judges, 1987, p. 11.

[3] Rosenberg, *"The Qualities of Justice — Are They Strainable?, in Winters, Selected Readings: Judicial Selection and Tenure," Ibid.*, p. 11.

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In the recent case of *Jocelyn Talens-Dabon v. Judge Hermin E. Arceo,*[4] the Court emphasized the importance of the role played by judges in the judicial system, thus:

"The integrity of the Judiciary rests not only upon the fact that it is able to administer justice but also upon the perception and confidence of the community that the people who run the system have done justice. At times, the strict manner by which we apply the law may, in fact, do justice but may not necessarily create confidence among the people that justice, indeed, is served. Hence, in order to create such confidence, the people who run the judiciary, particularly judges and justices, must not only be proficient in both the substantive and procedural aspects of the law, but more importantly, they must possess the highest integrity, probity, and unquestionable moral uprightness, both in their public and private lives. Only then can the people be reassured that the wheels of justice in this country run with fairness and equity, thus creating confidence in the judicial system."

Insistence on personal integrity and honesty as indispensable qualifications for judicial office reflect an awareness in the legal profession of the immensity of the damage that can be done to the legal order by judicial corruption. The rationale for this was succinctly put by Jones, thus:

"If a physician or a professor or a businessman is discovered to be a thief or an influence peddler, the disclosure will not put medicine, higher education, or business into general disrepute. But judges are different and more representative; revelations of judicial corruption create suspicion and loss of confidence in legal processes generally and endanger public respect for law."[5]

Indeed, to be effective in his role, a judge must be a man of exceptional integrity and honesty. The special urgency for requiring these qualities in a judge is not hard to understand for the judge acts directly upon the property, liberty, even life, of his countrymen. Hence, being in a position of such grave responsibility in the administration of justice, a judge must conduct himself in a manner befitting the dignity of such exalted office.

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[4] Administrative Matter No. RTJ-96-1336, July 25, 1996.

[5] Jones, *supra.*, p. 8.

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Respondent judge, however, not only failed in this respect but proved himself repeatedly unworthy of his post.

The records show that even after he became judge, respondent acted as counsel for herein complainants and misappropriated the judgment award of P30,000.00 which rightfully belongs to complainants. Moreover, respondent's line of defense revealed a significant and deplorable flaw in his character. In hoping to redeem himself, he categorically admitted that he deliberately, knowingly and willfully agreed to handle a case involving a fraudulent insurance claim and in the process procured and presented false witnesses in court. Under the circumstances, this Court is amazed at how brazen respondent has comported himself and without compunctions at leaving a "paper trail" behind him.

This Court notes that respondent had been previously fined P5,000.00 and sternly warned for knowingly issuing an order without jurisdiction and with grave abuse of discretion.[6] Moreover, he has four other administrative cases docketed against him involving various charges such as gross ignorance of the law, gross incompetence, illegal possession of firearms and ammunitions and falsification of public documents.

Respondent judge's seeming propensity to transgress the very law he is sworn to uphold makes him unfit to discharge the functions of a judge. Judicial office demands the best possible men and this Court will not hesitate to rid its ranks of undesirables who undermine its efforts towards effective and efficient administration of justice, thus tainting its image in the eyes of the public.

WHEREFORE, Judge Abdallah M. Casar is hereby DISMISSED from the service for misconduct and misappropriation with FORFEITURE of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch, agency or instrumentality of the government, including government-owned or controlled corporations. He is further ordered to turn over to complainant Makadaya Sadik and Linang Minalang the sum of Thirty Thousand Pesos (P30,000.00) which he received from

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[6] Libardos *v.* Casar, 234 SCRA 13 (1994).

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the Clerk of Court of RTC, Branch 13, Cotabato City last October 1, 1993.

This judgment is immediately executory and the respondent judge is further ordered to cease and desist from discharging the functions of his office upon receipt of this decision. Let a copy be entered in the personal records of the respondent.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Kapunan, Mendoza, Francisco, Hermosisima, Jr., Panganiban, and *Torres, Jr., JJ.,* concur.
Vitug, J., on leave.

SECOND DIVISION

[G.R. No. 108278. January 2, 1997]

NIACONSULT, INC., JOSE DEL ROSARIO, WILFREDO S. TIANGCO, and **CESAR DE GUZMAN,** *petitioners, vs.* **NATIONAL LABOR RELATIONS COMMISSION** and **JESUS C. OCAMPO,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; SERVICE AND FILING OF PLEADINGS; DATE OF DELIVERY OF DECISION ON OFFICIAL ADDRESS OF PETITIONERS, NOT VIOLATIVE OF RULE 13, SECTION 2 OF THE RULES OF COURT; CASE AT BAR.—** As the NLRC observed, the official address given by petitioners' former counsel, Atty. Musa I. Maglayang, was c/o NIA Bldg., EDSA, Quezon City. To consider the date of receipt of the decision of the Labor Arbiter to be February 25, 1991, when the decision was delivered at this address, is not to violate the rule (Rule 13, § 2) that when a party is represented by counsel, service of process must be made on counsel and not on the party.