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SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero and *Melencio-Herrera, JJ.*, concur.

SECOND DIVISION

[Adm. Mat. No. 2360-MJ. August 31, 1981]

SPOUSES TEODORICO MARFIL, and TEODORA ESPAÑOLA, complainants, *vs.* JUDGE ORLANDO CUACHON, 5TH Municipal Circuit Court of Isabela, MOISES PADILLA, Negros Occidental, respondents.

SYNOPSIS

Complainant charged respondent Judge with "gross ignorance of the law and acts unbecoming a Judge" for having taken cognizance of a criminal complaint against said complainant for violation of Presidential Decree No. 772 (Anti-Squatting Law) wherein the aggrieved party is an aunt of respondent's wife, conducted a preliminary examination, issued a warrant of arrest by virtue of which complainant was detained and set the case for hearing. In his comment, respondent Judge averred that his actuations therein are routinary and made in an effort to settle the case amicably but failing to settle the same, he inhibited himself subsequently.

The Supreme Court, holding that the acts of respondent Judge opened to question his ability to act with the cold neutrality of an impartial Judge, ruled that Paragraph 1, Section 1, Rule 137 of the Revised Rules of Court, being in the essence of due process, is mandatory and respondent's subsequent inhibition due to impossibility of amicable settlement, does not extenuate his culpability.

Respondent Judge is reprimanded with warning that a repetition of similar acts will be dealt with more severely.

SYLLABUS

1. REMEDIAL LAW; DISQUALIFICATION OF JUDGES; RULE ON DISQUALIFICATION ON ACCOUNT OF RELATIONSHIP BETWEEN THE JUDGE AND ONE OF THE PARTIES; MANDATORY.— "Section 1, Rule 137 of the Revised Rules of Court enumerates without ambiguity the cases in which any judge or judicial officer is disqualified from acting as such. The said section, in no

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uncertain terms, expressly prohibits a judge or judicial officer from sitting in a case where he is related to either party within the sixth degree of consanguinity or affinity. This is mandatory." (Hurtadi *vs.* Judalena and Judge Bonong, 84 SCRA 41; See also Basuan *vs.* Judge Baes, 81 SCRA 475). Strict compliance with the stringent rule on disqualification on account of relationship between the judge and one of the parties serves not only to protect the rights of the parties and assure an impartial administration of justice but also to prevent erosion of the people's confidence in the judiciary (Geotina *vs.* Gonzales, 41 SCRA 78). It is in the essence of due process that a judge sitting in a case, be at all times wholly free, impartial and independent.

2. CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OF LOWER COURTS; MUNICIPAL JUDGE; FAILURE TO INHIBIT HIMSELF UNDER PARAGRAPH 1, SECTION 1, RULE 137 OF THE REVISED RULES OF COURT; CENSURED IN CASE AT BAR.— Where it is an admitted fact that the aggrieved party in Criminal Case No. 449 is the aunt of respondent's wife but notwithstanding such relationship and the above-quoted prohibition, respondent took cognizance of the case, conducted a preliminary examination, issued a warrant of arrest by virtue of which complainant was detained and set the case for hearing on February 12, 1980, these actuations of respondent Judge opened to question his ability to act with the "cold neutrality of an impartial Judge for which he was censured."

3. ID.; ID.; ID.; ID.; ID.; WHEN SUBSEQUENT INHIBITION DOES NOT EXTENUATE CULPABILITY; CASE AT BAR.— Respondent Judge has violated the salutary norm that a Judge should always strive to preserve judicial integrity and discharge his task with concern to the cause of justice in accordance with the legal norms, which is the manifestation of Sec. 1, Rule 137 of the Rules of Court, of which respondent pretend ignorance of; otherwise such ignorance is inexcusable. The fact that respondent Judge subsequently inhibited himself after it became evident that no possible amicable settlement could be reached by the parties does not extenuate his culpability.

DECISION

DE CASTRO, *J.*:

In a verified complaint dated March 17, 1980 complainants charged respondent Judge Orlando Cuachon of the 5th Judicial

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Circuit Court of Isabela—Moises Padilla, Negros Occidental, with "gross ignorance of the law and acts unbecoming a Judge."

The complaint alleged that on December 10, 1979, Maria Soto Vda. de Gonzales, an aunt of the wife of respondent, filed a criminal complaint against herein complainant Teodorico Marfil, for violation of Presidential Decree No. 772 (Anti-Squatting Law), before the sala of respondent Judge. Respondent allegedly took cognizance of the case, and after conducting the first stage of the preliminary examination wherein the aggrieved party Maria Soto Vda. de Gonzales and her witnesses were investigated, respondent on January 8, 1980, issued a warrant for the arrest of Teodorico Marfil and fixed the bail of ₱1,000.00; that on the basis of such warrant complainant Marfil was apprehended on January 18, 1980 and detained. It was also alleged that on February 22, 1980 the accused-complainant hired the services of a counsel who, on the same day, filed a petition for referral of the criminal case to the Ministry of Agrarian Reform due to the tenancy aspect of the case, with prayer that the accused-complainant who is under detention be released. For failure of respondent to order the release of accused-complainant, an urgent motion to quash the criminal action dated March 6, 1980, was filed by the latter's counsel, which motion was however, not favorably acted upon by respondent. Complainants prayed that respondent be removed from his office.

In his comment and answer dated May 16, 1980 respondent Judge averred that when a complaint is filed in court, it becomes a routinary matter to accept the same and conduct a preliminary examination for the purpose of the issuance of a warrant of arrest; that on January 8, 1980 he issued a warrant of arrest; that on January 23, 1980 he issued a subpoena for the parties to appear on February 12, 1980, and on the latter date, the aggrieved party and the Station Commander of Moises Padilla, Negros Occidental, were present but the accused appeared without counsel. Respondent Judge further alleged that, being aware of the relationship of the wife to the aggrieved party, he announced

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during the said hearing that the case was called for a possible amicable settlement; that when he found that there was no possibility for an amicable settlement, he issued an order on the same date inhibiting himself from trying the case; that having inhibited himself, he could no longer act on the petition for referral dated February 22, 1980 and motion to quash, dated March 6, 1980, or order the release of the accused.

The complaint is meritorious. Paragraph 1, Section 1, Rule 137 of the Revised Rules of Court clearly provides:

"No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record."

The above rule is mandatory. Strict compliance with the stringent rule on disqualification on account of relationship between the judge and one of the parties serves not only to protect the rights of the parties and assure an impartial administration of justice but also to prevent erosion of the people's confidence in the judiciary.[1] It is in the essence of due process that a judge, sitting in a case, be at all times wholly free, impartial and independent.

It is an admitted fact that the aggrieved party in Criminal Case No. 449 is the aunt of respondent's wife. However, notwithstanding such relationship and the above-quoted prohibition, respondent took cognizance of the case, conducted a preliminary examination, issued a warrant of arrest by virtue of which complainant was detained and set the case for hearing on February 12, 1980. These actuations of respondent Judge

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[1] Geotina *vs.* Gonzales, 41 SCRA 78.

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opened to question his ability to act with the cold neutrality of an impartial Judge. We cannot, but censure him for these acts. His alleged effort to settle the case amicably could, therefore, be a mere guise to persuade the complainant to leave the land in question, to favor the suffered aggrieved party in the Criminal Case, with the added disadvantage on the part of complainant who was then under detention.

The fact that respondent judge subsequently inhibited himself after it became evident that no possible amicable settlement could be reached by the parties does not extenuate his culpability. Respondent judge has violated the salutary norm that a judge should always strive to preserve judicial integrity and discharge his task with deep concern to the cause of justice in accordance with the legal norms, which is the manifestation of the rule above cited, of which respondent counsel pretend ignorance of; otherwise such ignorance is inexcusable.

In the case of Hurtado *vs.* Judalena and Judge Bonong,[2] this Court held that:

"Section 1, Rule 137 of the Revised Rules of Court enumerates without ambiguity the cases in which any judge or judicial officer is disqualified from acting as such. The said section, in no uncertain terms, expressly prohibits a judge or judicial officer from sitting in a case where he is related to either party within the sixth degree of consanguinity or affinity. This is mandatory. In the case at bar, it is not denied that the respondent judge is the brother of the respondent Isabel G. Judalena and their close relationship notwithstanding, and despite the prohibition mentioned above, the respondent judge took cognizance of the case and issued the controversial order directing the issuance of a writ of preliminary injunction, after which he inhibited himself from sitting on the case for the same reasons. Such action, to our mind, is reprehensible as it erodes the all important confidence in the impartiality of the judiciary."

WHEREFORE, in view of the foregoing, respondent judge is hereby REPRIMANDED with warning that a repetition of similar act will be dealt with more severely. Let a copy of this decision be attached to his personal record.

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[2] 84 SCRA 41; See also Basuan *vs.* Judge Baes, 61.

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SO ORDERED.

Barredo (Chairman), Aquino, Concepcion Jr. and *Guerrero, JJ.*, concur.

Abad Santos, J., is on official leave.

Guerrero, J., was designated to sit in with the Second Division.

EN BANC

[Adm. Mat. No. 2426-CFI. August 31, 1981]

ALEJANDRO BALATBAT, complainant, *vs.* JUDGE JESUS DE VEGA, respondent.

DECISION

BARREDO, *J.*:

Administrative complaint dated September 30, 1980 against respondent judge, complainant alleging to be the victim of an unjust decision, "knowingly" rendered by said respondent and also ignorance of the law. Deputy Court Administrator, Hon. Romeo D. Mendoza, referred the said complaint to respondent on November 10, 1980 for comment, which respondent filed in a 2nd Indorsement dated December 12, 1980. A reply to said comment was filed by complainant on February 16, 1981.

We have carefully read the allegations of complainant in his complaint and reply, together with the annexes, and We have done the same to the comment of respondent. After meticulous study and mature deliberation on the report submitted by the Deputy Court Administrator, concurred in by Hon. Lorenzo Relova, the Court Administrator, We are fully convinced that the complaint lacks sufficient merit for further action against respondent.

WHEREFORE, the complaint is hereby dismissed. Let a copy of the report of the Office of the Court Administrator above-referred to, which is made part hereof by reference, be furnished the parties together with this decision.