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misrepresentation. Obviously, the issue of possession is a settled matter.[10]

WHEREFORE, in view of the foregoing, the instant petition is hereby *DENIED* for lack of merit.

SO ORDERED.

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

EN BANC

[A.M. No. CA-99-30. October 16, 2000]

(Formerly A.M. OCA IPI No. 99-15-CA-J)

UNITED BF HOMEOWNERS, *complainant, vs.* **JUSTICE ANGELINA SANDOVAL-GUTIERREZ and JUSTICE ALFREDO L. BENIPAYO,** *respondents.*

SYNOPSIS

In a Resolution dated September 29, 1999, the Supreme Court dismissed the administrative complaint filed against Justice Angelina Sandoval-Gutierrez and Court Administrator Alfredo L. Benipayo. The Court found totally bereft of factual basis Bago's accusations and innuendos against Justice Gutierrez for deliberately delaying the resolution of a case. Then Bago filed a follow-up letter complaint with the Office of the Chief Justice, containing imputations that the Supreme Court and Justice Benipayo are parties to the alleged delay committed by Justice Gutierrez.

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[10] *Rollo*, p. 34.

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In compliance with a Show Cause Order why they should not be punished for contempt for using intemperate, offensive and libelous language against Justice Gutierrez and other members of the judiciary, the UBFHAI Board denied having authorized the filing of the administrative complaint. The Board had also asked Bago to resign. Bago, on the other hand, explained that he was not aware about the dismissal of the administrative complaint when he wrote the follow-up letter and that the language he used in the complaints "simply echoed the frustration he also felt when CA-G.R. No. 46624 moved at a turtle pace."

Giving the officers of the UBFHAI Board the benefit of the doubt, the Supreme Court found Bago alone guilty of indirect contempt. Bago committed the act mentioned in Section 3 (d), Rule 70 of the Rules of Court. Intemperate and unfair criticism is a gross violation of the duty of respect to courts. Bago was fined the amount of ₱10,000.00.

APPEARANCES OF COUNSEL

Veneranda Ocaylar-Cruz for UBFHAI & the named officers & Directors.

SYLLABUS

LEGAL AND JUDICIAL ETHICS; DUTY OF RESPECT TO COURTS; SCURRILOUS ATTACKS ON THE INTEGRITY OF JUSTICES; INDIRECT CONTEMPT PROPER IN CASE AT BAR. — While the Court recognizes a litigant's right to criticize judges and justices in the performance of their functions, "it is the cardinal condition of all such criticism that it shall be *bona fide* and shall not spill over the walls of decency and propriety. A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges (or justices) thereof, on the other. Intemperate and unfair criticism is a gross violation of the duty of respect to courts." Far from being constructive, Bago's criticisms against Justices Gutierrez and Benipayo are scurrilous attacks on their honor and integrity, as well as that of the members of this Court, thereby undermining the courts' capacity to render justice.

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RESOLUTION

KAPUNAN, *J.*:

In our Resolution, dated 29 September 1999, we dismissed the administrative complaint filed against Justice Angelina Sandoval-Gutierrez of the Court of Appeals and Court Administrator Alfredo L. Benipayo and directed the complainants to show cause why they should not be punished for contempt for, among others, using intemperate, offensive and libelous language against Justice Gutierrez and the other members of the Thirteenth Division of the CA. The dispositive portion of said Resolution reads:

> *WHEREFORE,* the Court resolves to dismiss the Complaint dated 10 January 1999. Complainants are required to show cause within ten (10) days from receipt hereof why they should not be punished for contempt for using intemperate, offensive and libelous language against Justice Gutierrez and the other members of her division as above described, tending to cast aspersion on their honor and integrity and to degrade the administration of justice, as well as for making false and malicious imputations that this Court and Justice Benipayo are parties to the alleged delay committed by Justice Gutierrez in the resolution of CA-G.R. No. SP-46624.[1]

In compliance therewith, the United BF Homeowners' Association, Inc. (UBFHAI), through its officers and directors,[2] filed its Manifestation/Explanation, dated 20 October 1999, denying any responsibility in the filing of the administrative complaint against Justice Gutierrez and Justice Benipayo. It explained thus:

1. UBFHAI is an entity separate and distinct from "United BF Homeowners," the complainant in this case;

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[1] Resolution, A.M. No. CA-99-30, 29 September 2000, pp. 18-19.

[2] Namely: Celso L. Reyes, President; Rey L. Aguilera, Vice-President; Lester C. Lim, Treasurer; Benjamin B. Clemente, Auditor; Danilo E. Enriquez, PRO, and, Vitaliano N. Aguirre II, Leon M. Arceo, Veneranda Acaylar-Cruz, Antonio Z. Domingo, Elbert G. Friend, Antonio L. Santos, Alcio G. Tumulak and Renato Z. Victoria, Jr., Directors. Their term of office was from 1 March 1999 to 28 February 2000.

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2. The officers and directors of the UBFHAI were not aware of the proceedings with respect to this administrative complaint;

3. The author of the administrative complaint against Justice Gutierrez *et al.*, was Eduardo Bago, a member of the 1999 UBFHAI Board and its duly elected Secretary;

4. Without authorization from the UBFHAI, Bago launched a signature campaign and filed with the Office of the Court Administrator (OCA) the administrative complaint against Justice Gutierrez *et al.*, on 2 September 1998, docketed as A.M. OCA IPI No. 99-15-CA-J;

5. UBFHAI, through its then President Richie Ylaya, issued a memorandum to the different local associations of BF Homes Parañaque advising them that the signature campaign undertaken by Bago was not authorized by the UBFHAI;

6. UBFHAI likewise issued a disclaimer in its newsletter of July 1998;

7. Apparently, Bago wrote the letter-complaints using UBFHAI stationery;

8. When the administrative complaint against Gutierrez *et al.*, (A.M. OCA IPI No. 99-15-CA-J) was dismissed by the Court Administrator, Bago filed a second letter-complaint, this time, addressed to the Office of the Chief Justice;

9. When confronted by UBFHAI with the Court's Resolution, dated 29 September 1999, Bago showed the letter-complaint addressed to the Chief Justice written on plain bond paper with his signature and that of Lester C. Lim, Benjamin B. Clemente, Danilo E. Enriquez, Antonio L. Santos, Acio G. Tumulak, Renato Z. Victoria, Jr.;

10. Upon verification with the Court, the UBFHAI discovered that the letter-complaint was written on its stationery and purportedly signed by thirteen (13) directors/officers (including Bago) except for Atty. Vitaliano Aguirre II;

11. The officers and directors of the UBFHAI did not sign any follow-up complaint or petition.

The sheet attached thereto purportedly containing their signatures could have been taken from the minutes of UBFHAI

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meetings. Bago, as secretary of the board, had access to these minutes; and

12. On 20 October 1999, Bago was asked to submit his resignation and was stripped of all his positions in the association for acts inimical to its interests.[3]

For his part, Bago filed his Explanation, dated 19 October 1999, stating that:

1. He is one of the complainants in the administrative complaint against Justice Gutierrez and Justice Benipayo. The complainants are members of the United BF Homeowners, a local association separate and distinct from UBFHAI;

2. He was not aware about the dismissal by the OCA of A.M. OCA IPI No. 99-15-CA-J, thus, he wrote the follow-up letter-complaint, dated 3 May 1999, with the Office of the Chief Justice;

3. The delay in the resolution of CA-G.R. SP No. 46624 pending before the Thirteenth Division of the CA presided by Justice Gutierrez caused him (Bago) to file with the OCA the administrative complaint against the members of said division;

4. His perception that there was undue delay in the resolution of CA-G.R. SP No. 46624 was reinforced by the fact that the same division, in the similar case of *Penaranda vs. Caoibes, Jr.* (CA-G.R. SP No. 47011), acted expeditiously. The *Penaranda* case was resolved in a matter of six (6) months while CA-G.R. SP No. 46624 had been pending for seventeen (17) months;

5. He was overly enthusiastic in his ardent desire to have CA-G.R. SP No. 46624 resolved expeditiously. The language he used in the letter-complaints merely echoed the frustration he felt over the slow pace of the case. He did not, however, intend to hurt the feelings of Justice Gutierrez and Justice Benipayo, as well as the Justices of this Court;

6. He has all the respect for the honor and integrity of Justice Gutierrez, Justice Benipayo as well as the Justices of this

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[3] Manifestation/Explanation, pp. 1-8.

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> Court. He humbly and sincerely apologizes to them for whatever hurt and/or inconvenience he had caused them.[4]

In her Comment, Justice Gutierrez imputes collective responsibility upon UBFHAI and Bago for their direct participation or inexcusable and gross negligence. Justice Gutierrez points out that the UBFHAI directors and officers except Atty. Vitaliano Aguirre II signed the follow-up letter-complaint, dated 3 May 1999, addressed to the Chief Justice. Even if it were true that, as claimed by the officers and directors of UBFHAI they did not sign said follow-up letter-complaint, still, according to Justice Gutierrez, they are grossly negligent in not taking any action.

Justice Gutierrez does not believe that the officers of the UBFHAI were unaware of the proceedings with respect to the administrative complaint. She opines that it is evident from their Manifestation/Explanation that Richie Ylaya, UBFHAI President, Attys. Gregorio Batiller, Jr. and Vitaliano Aguirre II, and one "Jg" already knew about the signature campaign of Bago. Further, in April 1999, the community newspaper of BF Parañaque, "Village Mail", published a news item about the filing by the United BF Homeowners of a complaint against Justice Gutierrez with the Office of the Chief Justice. Thus, the officers of the UBFHAI cannot allegedly feign ignorance of the filing of the administrative complaint against Justice Gutierrez.

In their Reply to Comment of Justice Gutierrez, the officers of UBFHAI insist that they did not sign the follow-up complaint purportedly containing their signatures. They admit that they vigorously opposed the Parañaque Zoning Ordinance, which was subject of CA-G.R. SP No. 46624, but they maintain that this should not be taken against them. UBFHAI contends that CA-G.R. SP No. 46624 and the administrative complaint are two (2) entirely separate matters.

Further, the officers of the UBFHAI take exception to Justice Gutierrez' allegation that they failed to take any action against Bago. As shown in their Manifestation/Explanation, the board

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[4] Explanation, pp. 1-2.

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of UBFHAI issued a resolution calling for Bago's resignation.[5] Under the association's by-laws, the directors are elected by their respective sectors which have the sole power to remove him. On 23 October 1999, Bago submitted his letter of resignation from the board.

In our resolution of 4 September 1999 we found totally bereft of factual basis Bago's accusations and innuendos against Justice Gutierrez such as: she "succumbed to the representation of commercial establishment owners";[6] she has the "adroitness to compartmentalize Justice (sic)";[7] "We can only surmise the thousands of reasons why";[8] because of her "inaction" x x x we cannot do anything else but ask x x x Is the attendant delay deliberate? x x x Is it a conspiracy? x x x Is she that high and mighty? x x x Does she know the meaning of Justice (sic) delayed? x x x Do we have to file a graft complaint against her in the Ombudsman x x x?"[9]

Further, we found that the Follow-Up Complaint, dated 3 May 1999, cast aspersion not only on the dignity and integrity of Justices Gutierrez and Benipayo but of this Court, as well. Complainants therein claimed that they "were so disillusioned that nothing has been done about [their complaint against Justice Gutierrez] for the last eight (8) months by Justice Benipayo and, for the last two (2) months by your (the Chief Justice's) office on our complaint against both of them."[10]

In declaring the allegations therein as contemptuous, we opined thus:

The charge of foot-dragging against this Court is not only malicious but false because the Court had already acted on their complaint

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[5] Annex "J" to the Manifestation/Explanation.

[6] Letter-Complaint to the Chief Justice dated 10 January 1999.

[7] *Ibid.*

[8] *Ibid.*

[9] Follow-up Complaint addressed to the Chief Justice dated 3 May 1999.

[10] *Id.*, p. 15.

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against Justices Gutierrez and Benipayo and dismissed the same in its Resolution of 2 March 1999.

The above-mentioned accusations, imputations and innuendos, no doubt, are intended to get across the message that Justice Gutierrez was deliberately delaying the resolution of the case at the behest of the opposing party for certain considerations, for which reason she should be investigated by the Ombudsman. More than this, complainants plainly suggest that this Court could be complicit in the alleged delay.

We cannot but strongly deplore the resort by complaints to vile, intemperate and libelous language in attacking the character and integrity of the justices concerned. Complainants' acts degrade the dignity of the court and denigrate the trust and respect that should be accorded courts to maintain and uphold the highest ideals of justice.[11]

After careful consideration of the explanations proffered by UBFHAI and Bago in their respective pleadings, as well as the comments thereon of Justice Gutierrez, the Court finds Bago guilty of indirect contempt. Bago justified the language in his letters-complaint, which the Court found intemperate, offensive and libelous, by saying that it (his language) "simply echoed the pain and hurt he also felt when CA-G.R. SP No. 46624 moved at a turtle pace."[12]

Clearly, Bago committed the act mentioned in Section 3(d), Rule 70 of the Rules of Court:

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

Bago's only justification for his contemptuous language was the "pain and hurt" he felt for his belief, albeit unfounded, that the CA was unduly delaying the resolution of CA-G.R. No. SP-46624. We find this explanation feeble and unsatisfactory. While the Court recognizes a litigant's right to criticize judges and justices in the performance of their functions, "it is the

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[11] *Id.*, p. 17.

[12] *Id.* at 2.

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cardinal condition of all such criticism that it shall be *bona fide* and shall not spill over the walls of decency and propriety. A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges (or justices) thereof, on the other. Intemperate and unfair criticism is a gross violation of the duty of respect to courts."[13] Far from being constructive, Bago's criticisms against Justices Gutierrez and Benipayo are scurrilous attacks on their honor and integrity, as well as that of the members of this Court, thereby undermining the courts' capacity to render justice.

With respect to the other officers of the UBFHAI, they claim that they had no knowledge, much less tacit approval, of the acts of Bago, which they even condemned as irascible. Thus, they demanded that he resign as secretary of the association, which he did. Giving said officers the benefit of the doubt, we accept their explanation.

ACCORDINGLY, Eduardo Bago is found guilty of *INDIRECT CONTEMPT OF COURT* and is hereby *FINED* in the amount of ₱10,000.00 to be paid within ten (10) days from receipt of this Resolution, otherwise he shall suffer the penalty of ten (10) days of imprisonment.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

Bellosillo, J., no part due to relationship to one of parties.

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[13] *Maglasang vs. People*, 190 SCRA 306, 313 (1990); *In re Almacen*, 31 SCRA 562 (1970).