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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[Adm. Case No. 4748. August 4, 2000]

VICTORIA V. RADJAIE, *complainant, vs.* **ATTY. JOSE O. ALOVERA,** *respondent.*

SYNOPSIS

Alleging that Atty. Jose O. Alovera, former Presiding Judge of the Regional Trial Court of Roxas City; penned a Decision long after his retirement from the Judiciary, Victoria V. Radjaie filed a complaint before the Office of the Bar Confidant, seeking the disbarment of said judge. After due investigation, the Office of the Bar Confidant found among others, that the records of Civil Case No. V-6186 (pertaining to the questioned Decision of January 30, 1995) were with Judge Alovera and remained with him even after his retirement. It likewise found that the "decision" was filed with the court months after respondent's retirement. Accordingly, the Bar Confidant recommended the disbarment of Atty. Jose Alovera after it found more than sufficient evidence to sustain complainant's charge that indeed the January 30, 1995 decision in Civil Case No. 6186 which divested complainant of her property was penned by respondent after his retirement from the judiciary on January 31, 1995.

The recommendation of the Office of the Bar Confidant is well-taken. Respondent has sufficiently demonstrated that he is morally and legally unfit to remain in the legal profession. Despite the opportunities accorded the respondent to present substantial defense to refute the charges against him, he failed

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neither to do so nor to offer a valid explanation. When the integrity of a member of the bar is challenged, it is not enough that he denies the charges against him, he must meet the issue and overcome the evidence against him. The gross misconduct committed by the respondent brings intolerable dishonor to the legal profession and calls for the severance of respondent's privilege to practice law for life.

SYLLABUS

1. **LEGAL ETHICS; DISBARMENT; RENDERING A DECISION AFTER A LAWYER'S RETIREMENT FROM THE JUDICIARY WARRANTS DISBARMENT.**— Based on the foregoing findings, the Bar Confidant recommended the disbarment of respondent, declaring that if found more than sufficient evidence to sustain complainant's charge against respondent that, indeed, the January 30, 1995 decision in Civil Case No. V-6186, which divested complainant of her property in Panay, Capiz, was penned by respondent after his retirement from the judiciary on January 31, 1995. This Court finds the recommendation of the Office of the Bar Confidant to be well-taken. Respondent has thus sufficiently demonstrated that he is morally and legally unfit to remain in the exclusive and honorable fraternity of the legal profession. The testimonies of Nenita M. Aluad, Teresita V. Bauzon and Concepcion Alcazar were all quite telling on how respondent acted in a grossly reprehensible manner in having the questioned decision dated January 30, 1995 come to fore, leading ultimately to its execution divesting the complainant of her property. Respondent gravely abused his relationship with his former staff, pompously flaunting his erstwhile standing as a judge. Respondent disregarded his primary duty as an officer of the court, who is sworn to assist the courts and not to impede or pervert the administration of justice to all and sundry. In so doing, he made a mockery of the judiciary and eroded public confidence in courts and lawyers.

2. **ID.; ESSENCE OF THE LAWYER'S OATH.**— This oath to which all lawyers have subscribed in solemn agreement to dedicate themselves to the pursuit of justice, is not a mere ceremony or formality for practicing law to be forgotten afterwards nor is it mere words, drift and hollow, but a sacred

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trust that every lawyer must uphold and keep inviolable at all times. This oath is firmly echoed and reflected in the Code of Professional Responsibility, the particular provisions of which are applicable to the case at bar.

3. **ID.; ROLE OF LAWYERS; ANY DEPARTURE FROM THE PATH A LAWYER MUST FOLLOW AS DEMANDED BY HIS PROFESSION, NOT TOLERATED BY THIS COURT AS THE DISCIPLINING AUTHORITY.**— This Court has been nothing short of exacting in its demand for integrity and good moral character from members of the Bar. By swearing the lawyer's oath, an attorney becomes a guardian of truth and the rule of law, and an indispensable instrument in the fair and impartial administration of justice — a vital function of democracy a failure of which is disastrous to society. Any departure from the path which a lawyer must follow as demanded by the virtues of his profession shall not be tolerated by this Court as the disciplining authority for there is perhaps no profession after that of the sacred ministry in which a high-toned morality is more imperative than that of law.

APPEARANCES OF COUNSEL

Arecia R. Rendor, Jr. for complainant.

DECISION

PER CURIAM:

Atty. Jose O. Alovera, former Presiding Judge of the Regional Trial Court of Roxas City, Branch 17, faces disbarment for having penned a Decision[1] dated January 30, 1995 long after his retirement from the Judiciary on January 31, 1995 which ultimately divested complainant Victoria V. Radjaie of her property in Panay, Capiz.

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[1] In Civil Case No. V-6186 entitled "The Heirs of the Late Faustina Borres (except Victoria Villaruz Radjaie) represented by *Arturo V. Agudo, et al. v. Victoria Villaruz Radjaie*" for Partition and Accounting.

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In an Affidavit-Complaint[2] filed before the Office of the Bar Confidant on April 21, 1997,[3] complainant sought the disbarment of respondent enumerating the following particulars to support her contention that the questioned January 30, 1995 decision was prepared after the retirement of respondent:

a) Almost all orders issued by then Judge Alovera prior to his retirement bear the stamp "RECEIVED" by Branch 17 of RTC-Roxas City, with the initial of the one who received it for filing with the court-record except the Order of January 25, 199S (p. 87 records) admitting, and the Decision dated January 30, 1995 (pp. 88-93, *ibid.*).

b) It can also be seen that all the orders issued prior to the retirement were all type-written in the same type-[writer] except the January 25, 1995 Order (p. 87) and the Decision (pp. 88-93) and these two (2) documents appear to have been type-written on the same type-[writer].

c) It is also a source of wonder why plaintiffs formally offered their evidence one year after the last witness was presented last December 10, 1993.

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Plaintiffs had until January 20, 1994 to formally offer their evidence but it took them one (1) year and five (5) days to file such a simple pleading. It goes against the normal human experience when plaintiffs who are allowed to present evidence *ex-parte* are usually very quick in having things done because there is no opposition but in this case it took plaintiffs a while to formally rest which was only fifteen (15) days prior to the retirement of Mr. Alovera. This timing is highly suspect.

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[2] Complainant initially filed a Letter-Complaint dated February 27, 1996 with the Office of the Court Administrator but subsequently withdrew her complaint. Nonetheless, the Court Administrator still conducted an investigation thereon. Thereafter, the Supreme Court referred the administrative complaint to the Office of the Bar Confidant for appropriate action, pursuant to the recommendation of the Deputy Court Administrator, Zenaida Elepaño, in a memorandum dated October 9, 1996; *Rollo*, p. 130.

[3] Subscribed and sworn to before Notary Public Ferdinand D. Tolentino on September 17, 1996; Exhibit "A", Folder of Exhibits.

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d) Even plaintiffs' formal offer of evidence showed badges of fraud. It was not received by the trial court. Page 67 shows this clearly. It would not be surprising if the same was also inserted into the records on a much later date and Atty. Alberto Villaruz must be made to explain this too.

It was dated January 20, 1995 but the date of the Professional Tax Receipt (PTR) of Atty. Alberto A. Villaruz, counsel for the plaintiffs, was issued only on January 31, 1995. This is shown on Page 71 of the records.

e) There is no showing that the January 25, 1995 Order (p. 87) admitting the formal offer was even received by a Court staff for filing with the records.

f) The same can be said of the January 30, 1995 Decision (pp. 88-93) which was allegedly decided five (5) days after the order admitting the evidence (p. 87) was allegedly issued. What a swift action from a retiring judge.

g) A copy of the Decision was not even sent to the counsel for the plaintiffs but is shown to have been received by one of the plaintiffs only on August 1, 1995 (p. 93).

h) Again, it is beyond the normal experience for a lawyer such as Atty. Villaruz who is a practitioner in the locality and who is in Court almost everyday that he will not follow up if there is already a decision rendered in a case where he was allowed to present evidence *ex-parte* or even be told about it.

i) The records show that all orders after the retirement of Mr. Alovera bear the stamp "RECEIVED" by the Court staff who received them for filing in the court records.

Traversing the allegations of the Affidavit-Complaint as purely speculative and not based on personal knowledge, the respondent, in his Comment[4] dated August 20, 1997, further assailed as simply self-serving complainant's Affidavit-Complaint alleging that a careful scrutiny of the *expediente* of Civil Case No. V-6186 would reveal that respondent observed due process when

[4] *Rollo*, at p. 224-227.

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he resolved the said case against complainant.[5] It was only when Judge Julius Abela, who succeeded him in RTC, Br. 17, Roxas City, annulled, through a resolution, the questioned January 30, 1995 decision, which ostensibly having become final was also executed, did the matter get out of hand.[6] His said decision, respondent argued, may only be impeached, annulled or otherwise set aside under three (3) modes,[7] all of which were either not availed of by complainant for lapse of time, or like an action to annul the judgment, though still available, should not have been filed in the same court, which rendered the questioned decision, but should have been filed, instead, in the Court of Appeals.[8] As to the absence of stamp "RECEIVED" on the questioned decision, respondent shifted the blame to the then OIC Clerk of Court of the said court, Mrs. Nenita Aluad, contending that after the decision was rendered on January 30, 1995, he lost control of it and he surmised that Mrs. Aluad, who had the duty to receive and record the decision, might have lost it "momentarily."[9]

In a Resolution[10] dated October 22, 1997, this Court referred the instant case to the Office of the Bar Confidant for investigation, report and recommendation. While in the process of investigation, three (3) incidents occurred, namely:

1. The Integrated Bar of the Philippines (IBP), Capiz Chapter, approved Resolution No. 9, Series of 1997 on December 17, 1997, questioning the order, dated November 28, 1997,

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[5] *Id.*, p. 226.

[6] *Ibid.*

[7] These are (a) direct action, *i.e.*, by special civil action for *certiorari*, if the judgment was issued without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack of jurisdiction; (b) petition for relief from judgment; and (c) independent civil action to annul a judgment, where the alleged defect is not apparent on its face or from the recitals contained in the judgment.

[8] *Supra*, at p. 226.

[9] *Ibid.*

[10] *Id.*, p. 229.

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of the Regional Trial Court, Br. 17, Roxas City, which ordered the suspension from the practice of law of herein respondent and Atty. Alberto Villaruz;

2. The Court *En Banc*, in its Resolution of December 22, 1997, resolved to issue a temporary restraining order (TRO) in G.R. No. 131505, entitled "*Atty. Alberto A. Villaruz vs. Honorable Julius L. Abela,*" ordering the respondent judge therein to cease and desist from enforcing and/or implementing his questioned order dated November 28, 1997 in Civil Case No. V-6186, which ordered the suspension of Atty. Villaruz; and,

3. Respondent Alovera filed a petition for *certiorari* before the Supreme Court, entitled "*Jose Alovera vs. Victoria Villaruz-Radjaie and Judge Julius L. Abela,*" under G.R. No. 131768, which, at the time was still pending, questioning the Order of November 28, 1997 which ordered respondent's suspension from the practice of law.

Thus, necessitated the filing of the Manifestation[11] by the Office of the Bar Confidant on January 27, 1998, inquiring from the Court whether to proceed with the investigation of the case in view of the aforementioned incidents.

On February 18, 1998, the Court directed the Office of the Bar Confidant to proceed with the investigation of the instant case.[12]

Judge Julius Abela, Nenita M. Aluad, legal researcher, Teresita V. Bauzon, court stenographer, Concepcion Alcazar, clerk-in-charge of civil cases and special proceedings, all of Regional Trial Court, Br. 17, Roxas City, Rosa Dapat, court stenographer of Regional Trial Court, Br. 15, Roxas City and the complainant herself testified as witnesses for the complainant.

The respondent presented as his lone witness, Mrs. Rosa Dapat, who merely testified on the January 10, 1993 proceedings inside his chambers. Respondent himself did not testify and neither did any other witness testify for him, despite the issuance of

[11] *Id.* at p. 235.

[12] *Id.* at p. 234.

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subpoena *ad testificandum* on Ireneo Borres and Ludovico Buhat, who both failed to appear at the investigation. In lieu of their oral testimonies, respondent offered and presented their respective affidavits.[13] Complainant chose not to object thereto and even waived her right, through her counsel, to cross-examine them.

The established facts, as quoted from the Report dated November 17, 1999 of the Office of the Bar Confidant, are as follows:

On July 2, 1992, the heirs of the late Faustina Borres, Segundina Borres, Felisa Borres, Micaela Borres, Maria Bores, and Sixto Borres (hereinafter "Borres heirs") through their counsel, Atty. Alberto A. Villaruz, filed an action for Partition and Accounting, docketed as Civil Case No. V-6186, with the Regional Trial Court, Br. 15, Roxas City, against herein complainant, Victoria V. Radjaie, who was presumably an heir of the late Faustina Borres. The action sought, among others, the cancellation of Transfer Certificate of Title No. T-24150 in the name of herein complainant covering a parcel of land with an area of 215,777 square meters situated in Panay, Capiz, and the declaration of the said parcel of land as property commonly owned by the Borres heirs.

On July 16, 1993, Br. 17, to which Civil Case No. V-6186 was re-raffled, declared herein complainant in default and ordered the Borres heirs to present their evidence on July 30, 1993.[14]

It was only after three (3) postponements that the Borres heirs were able to start presenting their evidence *ex-parte* on October 8, 1993. For lack of material time, however, the presentation of evidence was again reset to November 22, 1993, which again was postponed and reset to December 10, 1993.[15]

On December 10, 1993, there were several criminal and, civil actions scheduled for trial, which commenced at about 10:00 in the morning, before Br. 17, including Civil Case No. V-6186, which was listed number four in the court calendar. Judge Alovera presided

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[13] Exhibits "3" and "4".

[14] Exhibit "C" at p. 44.

[15] *Id.*, at pp. 46, 48, 54, 62 and 66.

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over the hearing and Teresita V. Bauzon, court stenographer of Br. 17, took down notes of the proceedings. Atty. Villaruz appeared for the accused in a criminal case[16] before Br. 17 at the time. The court had a recess at 11:10 and resumed at 11:35 in the morning. After the hearing of criminal cases was through, Civil Case No. V-6186 was called at about 11:55 in the morning, but the plaintiffs as well as their counsel, Atty. Villaruz, were no longer inside the courtroom. The session thus adjourned at 11:57 in the morning without Civil Case No. V-6186 being heard.[17]

At about 11:30 in the morning of the same date, Atty. Villaruz approached Rosa Dapat, who was the court stenographer at the time of RTC, Br. 15, Roxas City, while she was in her office. Atty. Villaruz told her that Judge Alovera was requesting her to assist in the proceedings of Civil Case No. V-6186. At first she was hesitant to accede to the request as Br. 17 had also its own court stenographer. She relented though when told that Br. 17 as well as the other branches had no available court stenographer. She then went to Br. 17 and saw Atty. Villaruz standing by the door of the chambers of Judge Alovera. Atty. Villaruz motioned her to enter the chambers, which is separate from the courtroom. While inside the chambers, she saw Judge Alovera behind his desk and other people whom she did not know. Upon being told that Mrs. Dapat would be the stenographer, Judge Alovera told Atty. Villaruz to start the proceedings. Following the manifestation made by Atty. Villaruz, a witness, whom she later recognized to be Atty. Arturo Agudo, was called. At that instant Judge Alovera stood up and said, *"All right, you just continue,"* and then went out of the chambers.[18] Judge Alovera would occasionally return to the chambers in the course of the proceedings, but he would just sit down and listen while Atty. Villaruz was conducting his direct examination of the witness and presenting documentary evidence.[19] The proceedings lasted up to 12:10 in the afternoon, with Judge Alovera making only two rulings in the course thereof, including the one he made at the end when he ordered the plaintiffs to file their written offer of evidence on January 20, 1994.[20]

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[16] *People v. Donanito Hijosa.*

[17] TSN, Hearing of November 10[PM], 1998, pp. 55-57.

[18] *Id.*, pp. 17-23.

[19] *Id.*, pp. 32-35.

[20] *Id.*, pp. 29, 35-39.

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From this point on, complainant would establish how the January 30, 1995 decision of Judge Alovera in Civil Case No. V-6186 came about.

Prior to his retirement from the judiciary on January 31, 1995, or on January 5, 1995, Judge Alovera designated his legal researcher, Mrs. Nenita Aluad, to be the OIC Branch Clerk of Court.[21] As part of her functions as such OIC, all decisions, orders and resolutions of Br. 17 would first be received by her from the judge, and would stamp them "RECEIVED" and put thereon the date of receipt as well as her initial or signature.[22] This is in accordance with Sec. 1, Rule 36 of the Rules of Court.[23]

Sometime in February of 1995, Mrs. Teresita V. Bauzon, court stenographer of Br. 17 since 1993, was asked to type the draft decision in Civil Case No. V-6186 in Judge Alovera's house. When she inquired if he can still do it, Judge Alovera told her that he had one (1) year more to decide cases. With this assurance, she typed the draft decision on a single bond paper without a duplicate as Judge Alovera was dictating it.[24]

On August 1, 1995 at about 9:30 in the morning, retired Judge Alovera came to Br. 17, with a man and a woman, later identified as the plaintiffs in Civil Case No. V-6186, behind him. While he was approaching Nenita Aluad, he uttered to the latter, *"Receive this, receive this,"* referring to the questioned January 30, 1995 decision, which he was holding. As he spread the decision on her table, he continued, *"Because I will defend you even up to the Plaza Miranda. And give copies to these two,"* pointing to the plaintiffs who were at his back.[25] Almost instantaneously, Mrs. Aluad replied, *"I would not receive it because it is already August 1, 1995,"* and she did not

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[21] TSN Hearing of November 9 [PM], 1998, pp. 33-34.

[22] *Id.*, pp. 25-26.

[23] *Rendition of judgments and final orders.* — A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, *and filed with the clerk of court.* (italics supplied)

[24] Hearing of November 10 [PM], 1998, pp. 48, 58-61.

[25] TSN, Hearing of November 9 [PM], 1998, p. 38.

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argue with him anymore so as not to embarrass him for being her former superior.[26] She then went out of the office while retired Judge Alovera, as well as the two plaintiffs were still inside.[27] At about the same time, Mrs. Concepcion Alcazar, another employee of Br. 17 and the clerk-in-charge of civil cases and special proceedings therein, saw Judge Alovera inside the office of Br. 17 while trying to have her co-employees receive the questioned decision. Nobody, however, received the same because it was already seven (7) months after his retirement.[28] A little later, she found the questioned decision, together with the formal offer of exhibits of January 20, 1995 and the order of January 25, 1995, on the top of her table. Although she noticed that these records were not stamped "RECEIVED" as a matter of procedure, she went on to attach the said records to the *expediente* of Civil Case No. V-6186.[29] She even gave a copy of the questioned decision to one of the plaintiffs, Ireneo Borres, and to Atty. Villaruz, which was received for him by Ireneo Borres.[30] After keeping the *expediente*, she then entered the questioned decision in her logbook.[31]

The Borres heirs succeeded in having the questioned decision executed when, on January 31, 1996, the lessee of the property, which is the subject matter of Civil Case No. V-6186, surrendered possession of the said property in favor of the Borres heirs.[32] Said transfer of possession was made pursuant to the writ of execution issued on January 19, 1996 by the Acting Presiding Judge of Br. 17, Hon. Delano F. Villaruz, through Clerk of Court Susan Mendoza Arce.[33]

Meanwhile, complainant, who had been working in Japan together with his husband who is employed at the Turkish Embassy in Tokyo, Japan, learned of what happened to her property in Panay, Capiz.[34]

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[26] *Id.*, 39-46.

[27] *Id.*, p. 45.

[28] TSN, Hearing of November 13 [PM], 1998, pp. 45-49.

[29] *Id.*, pp. 30-32, 51-52.

[30] *Id.*, pp. 34-36.

[31] *Id.*, pp. 52-53.

[32] Exhibit "C" at p. 116.

[33] *Id.*, at p. 22.

[34] TSN, Hearing of November 12 [PM], 1998, pp. 20-21.

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She was thus prompted to come back to the Philippines, which resulted in losing her job in Japan.

Back home, complainant, on March 5, 1996, filed a Petition for Relief from Order, questioning the January 30, 1995 decision and the January 19, 1996 Writ of Execution.[35] She also prayed "that disciplinary and contempt proceedings be taken against those involved in the perfidious anomaly to tamper with the administration of justice."[36]

Judge Julius L. Abela took cognizance of Civil Case No. V-6186 as he was the acting presiding judge of Br. 17 at the time of the filing of said petition for relief from order.[37] In the course of the proceedings thereof, he noticed that the Formal Offer of Exhibits purportedly filed by the plaintiffs, *i.e.*, Borres heirs, was dated January 20, 1995, while the PTR of their counsel, Atty. Alberto Villaruz, was issued on January 31, 1995. He concluded then that the said offer could not have been filed on January 20, 1995. When he asked Atty. Villaruz about it, the latter refused to answer and just kept quiet.[38] He likewise observed that there was no order in Civil Case No. V-6186 submitting the same for decision, except for the order made by Judge Alovera on December 10, 1993 during the "simulated proceedings" inside his chambers, where he directed the counsel for the plaintiffs to file his offer of exhibits.[39] Mrs. Rosa Dapat, who took down notes during the said proceedings and who was not a member of the staff of Br. 17, was not even acknowledged on the records as the official stenographer in the course thereof.[40] Thus, in his resolution of September 25, 1997, Judge Abela granted the petition for relief filed by complainant and the latter was ordered reinstated to the possession of the property in question. In the same resolution, Judge Abela declared the January 30, 1995 decision null and void, the same not being filed with the clerk of court and

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[35] Exhibit "C" at p. 129.

[36] *Id.*, at p. 132.

[37] TSN, Hearing of November 12 [AM], 1998, pp. 4-5.

[38] *Id.* pp. 10-14.

[39] *Id.*, pp. 25, 68.

[40] *Id.*, p. 25.

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not properly rendered in accordance with Section 1, Rule 36, Rules of Court.[41]

Prompted by what he considered to be anomalous proceedings, coupled with the prayer of complainant in her petition for relief "that disciplinary and contempt proceedings be taken against those involved in the perfidious anomaly to tamper with the administration of justice," Judge Abela conducted an investigation into the said anomaly.[42] After considering the testimonies of Misses Aluad, Dapat, Bauzon and Alcazar during the investigation, together with the documentary evidence presented, he concluded, thus:

> From the foregoing facts and circumstances the following facts are established that:
>
> 1) Civil Case No. V-6186 was not tried on December 10, 1993. What transpired was a mock or simulated trial inside the chamber of Judge Alovera where only Atty. Alberto Villaruz, the plaintiffs and Mrs. Rosa Dapat, a court stenographer from another court, were present. No Judge or RTC Branch 17 court personnel were present as there was actual court session in open court going on at that time.
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> 2) The records of Civil Case No. V-6186 were with Judge Jose O. Alovera and remained with him even after his retirement on January 31, 1995. He did not return the record to Mrs. Concepcion Alcazar, Court Clerk III in Charge of Civil Cases.
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> 3) The record of Civil Case No. V-6186 turned up on the table of Mrs. Alcazar together with the "Offer of Exhibits" of Atty. Villaruz dated January 20, 1995 and the "Order" dated January 25, 1995, after the retirement of Judge Alovera. Both the Offer and the Order admitting the exhibits were not properly filed and do not bear markings of having been received by the court.
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> 4) The "decision" of Judge Jose O. Alovera, though dated January 30, 1995, was filed with the court on August 1,

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[41] *Id.*, pp. 8-9; Exhibit "C" at p. 337.

[42] TSN, Hearing of November 12 [AM], 1998, pp. 31-32.

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1995 by former Judge Alovera himself and because he was no longer a judge his submission was refused.

CONCLUSIONS

The "Offer of Exhibits" of Atty. Alberto Villaruz though dated January 20, 1995 bears signature and PTR No. issued on January 31, 1995. This simply means that the pleadings (were) *ante* dated. It is impossible for Atty. Villaruz to affix his PTR No. dated January 31, 1995 or any date prior to its issuance. The Offer of Exhibits could have been made only on January 31, 1995 or later. Because this is so, the Order of Judge Alovera dated January 25, 1995 is also *ante* dated and could have been made only on a date beyond the filing of the Offer of Exhibits. So also with the decision of former Judge Alovera dated January 30, 1995.

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The Order admitting the exhibits and the decision were made after the retirement of Judge Alovera. He was no longer a judge.

The acts of Attys. Alberto Villaruz and Jose O. Alovera constitute deceit, malpractice, serious and grave misconduct as lawyer justifying their suspension from the practice of law and ultimately their disbarment.[43]

Based on the foregoing findings, the Bar Confidant recommended the disbarment of respondent, declaring that it found more than sufficient evidence to sustain complainant's charge against respondent that, indeed, the January 30, 1995 decision in Civil Case No. V-6186, which divested complainant of her property in Panay, Capiz, was penned by respondent after his retirement from the judiciary on January 31, 1995.

This Court finds the recommendation of the Office of the Bar Confidant to be well-taken. Respondent has thus sufficiently demonstrated that he is morally and legally unfit to remain in the exclusive and honorable fraternity of the legal profession.

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[43] Exhibit "P".

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In his long years as a lawyer, respondent has forgotten his sworn pledge as a lawyer. It is time once again that the Court inculcate in the hearts of all lawyers that pledge; thus —

LAWYER'S OATH

"I, x x x, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support and defend its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood nor consent to its commission; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same; I will not delay any man's cause for money or malice and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients and I impose upon myself this obligation voluntary, without any mental reservation or purpose of evasion.

SO HELP ME GOD.

This oath to which all lawyers have subscribed in solemn agreement to dedicate themselves to the pursuit of justice, is not a mere ceremony or formality for practicing law[44] to be forgotten afterwards nor is it mere words, drift and hollow, but a sacred trust that every lawyer must uphold and keep inviolable at all times.[45] This oath is firmly echoed and reflected in the Code of Professional Responsibility, the particular provisions of which are applicable to the case at bar, provide, to wit:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

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[44] *In Re: Al Argosino,* 270 SCRA 26, 30-31 [1997].

[45] *Masinsin v. Albano*, 232 SCRA 631, 636-637 [1994].

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CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the Integrated Bar.

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

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CANON 10 — A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead or allow the court to be misled by any artifice.

All of these underscore the role of the lawyer as the vanguard of our legal system. When respondent took the oath as a member of the legal profession, he made a solemn promise to so stand by his pledge.[46] In this covenant, respondent miserably failed.

The testimonies of Nenita M. Aluad, Teresita V. Bauzon and Concepcion Alcazar were all quite telling on how respondent acted in a grossly reprehensible manner in having the questioned decision dated January 30, 1995 come to fore, leading ultimately to its execution divesting the complainant of her property. Respondent gravely abused his relationship with his former staff, pompously flaunting his erstwhile standing as a judge. Respondent disregarded his primary duty as an officer of the court, who is sworn to assist the courts and not to impede or pervert the administration of justice to all and sundry.[47] In so

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[46] *Investment and Management Services Corporation v. Roxas*, 256 SCRA 229, 234 [1996].

[47] *Pepsi Cola Products Phils., Inc. v. Court of Appeals*, 299 SCRA 518, 527 [1998]; *Cordova v. Labayen*, 249 SCRA 172, 184 [1995]; *Sanchez v. Brion*, 249 SCRA 1, 4 [1995]; *Libit v. Oliva*, 237 SCRA 375, 378 [1994]; *Likong v. Lim*, 235 SCRA 414, 419 [1994]; see *Co v. Bernardino*, 285 SCRA 102, 107 [1998]; *Choa v. Chiongson*, 260 SCRA 477, 483 [1996].

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doing, he made a mockery of the judiciary and eroded public confidence in courts and lawyers.

This Court has been nothing short of exacting in its demand for integrity and good moral character from members of the Bar. By swearing the lawyer's oath, an attorney becomes a guardian of truth and the rule of law, and an indispensable instrument in the fair and impartial administration of justice — a vital function of democracy a failure of which is disastrous to society. Any departure from the path which a lawyer must follow as demanded by the virtues of his profession shall not be tolerated by this Court as the disciplining authority[48] for there is perhaps no profession after that of the sacred ministry in which a high toned morality is more imperative than that of law.[49]

Despite the opportunities accorded to respondent to present substantial defense to refute the charges against him, he failed neither to do so nor to offer a valid explanation. When the integrity of a member of the bar is challenged, it is not enough that he denies the charges against him; he must meet the issue and overcome the evidence against him. He must show proof that he still maintains that degree of morality and integrity which at all times is expected of him.[50]

Given the peculiar factual circumstances prevailing in this case, the Court finds as appropriate the recommended penalty of the Office of the Bar Confidant in its Report. Such gross misconduct of the respondent brings intolerable dishonor to the legal profession and calls for the severance of respondent's privilege to practice law for life.

WHEREFORE, respondent JOSE O. ALOVERA is hereby *DISBARRED*. The Office of the Clerk of Court is directed to strike out his name from the Roll of Attorneys and to inform all courts of this Decision.

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[48] *Businos v. Ricafort,* 283 SCRA 407, 414-415 [1997].

[49] *Tapucar v. Tapucar,* 293 SCRA 331, 337 [1998].

[50] *Reyes v. Gaa,* 246 SCRA 64, 67 [1995].

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SO ORDERED.

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

Bellosillo, J., on leave.

Vitug, J., no part; close relationship with a party.

Kapunan, J., no part in view of relations with parties.

FIRST DIVISION

[A.M. No. MTJ-00-1259. August 4, 2000]

ALFONSO C. ORTIZ, *complainant, vs.* **JUDGE ALEX L. QUIROZ,** *respondent.*

SYNOPSIS

For having applied the ordinary rules of procedure in conducting trial to two criminal cases which were subject to the rules of summary procedure, Judge Alex L. Quiros of the Metropolitan Trial Court in Pasig City was charged with an administrative complaint for patent disregard of the Rules on Summary Procedure, gross ignorance of the law, and knowingly rendering an unjust judgment. In a report dated February 3, 2000, the Office of the Court Administrator recommended that respondent judge be fined and warned for the said act.

Considering that the subject criminal cases were penalized with imprisonment not exceeding six months or a fine not exceeding ₱1,000.00 or both, irrespective of other imposable penalties, it should have been tried under the Revised Rule on Summary Procedure. Respondent judge, therefore, committed an error in applying the ordinary rules of procedure to said cases and must be sternly warned for it. A judge has a duty to