



Republic of the Philippines

Supreme Court

Manila

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SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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JUL 14 2020

BY: Jordan  
TIME: 1:13 pm

LEONARIA C. NERI, ABETO  
LABRA SALCEDO, JR.,  
JOCELYN ENERIO SALCEDO,  
EVANGELINE P.  
CAMPOSANO, and HUGO S.  
AMORILLO, JR.,

Complainants,

A.M. No. RTJ-16-2475  
(Formerly A.M. No. 16-07-261-RTC)

Present:

PERALTA, *Chief Justice*,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
REYES, A., JR.,  
GISMUNDO,  
REYES, J., JR.,  
HERNANDO,\*  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ,  
DELOS SANTOS, *and*  
GAERLAN, *JJ.*

- versus -

JUDGE BONIFACIO M.  
MACABAYA, Branch 20,  
Regional Trial Court, Cagayan de  
Oro City, Misamis Oriental,  
Respondent.

Promulgated:

February 4, 2020

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DECISION

**PER CURIAM:**

Before the Court is an administrative complaint against Judge Bonifacio M. Macabaya (respondent) of Branch 20 of the Regional Trial Court of Cagayan de Oro City (RTC) relative to his acts of borrowing and taking money and properties from litigants who had cases pending before his *sala*.

\* On official leave.

### Factual Antecedents

In separate Sworn Statements filed with Executive Judge Dennis Z. Alcantar (Executive Judge Alcantar) of the Regional Trial Court (RTC) in Cagayan de Oro City on May 12, 2015, on May 19, 2015, and on May 27, 2015, respectively, Leonaria C. Neri (Neri), the spouses Abeto L. Salcedo, Jr. (Abeto) and Jocelyn Salcedo (Jocelyn) (Sps. Salcedo), Evangeline P. Camposano a.k.a. Evangeline C. Becera (Camposano), and Hugo S. Amorillo, Jr. (Amorillo) (collectively, complainants) alleged that respondent judge and his wife borrowed money from them at various times while their respective cases were pending before the *sala* of respondent judge.<sup>1</sup>

As summarized by the Office of the Court Administrator (OCA), the following are the contents of the foregoing Sworn Statements:

#### Neri's Accusation

Neri's case involves a foreclosure of mortgage over a property owned by her daughter, Elizabeth Neri Garces, also known as "Dayen", and the latter's husband, Dr. Garces, which was filed against the said spouses by the Land Bank of the Philippines sometime in 2011, and raffled off to Branch 20 of the RTC of Cagayan de Oro City. Neri alleged that when she and her said daughter went to see respondent, the latter told them that Landbank wanted to take the property but he [respondent] did not sign the Order yet. The respondent then suggested for them to hire Atty. [Alvin] Calingin as their counsel and they heeded respondent's suggestion.<sup>2</sup>

This complainant likewise alleged that sometime in April 2012, while the case was undergoing judicial dispute resolution proceedings, respondent invited her (Neri) to the Persimmon Bakery at Cagayan de Oro City; that while there, respondent, who at that time was in the company of a certain Cesar Gorillo, borrowed ₱50,000.00 from her, and that she had to withdraw this amount from the Banco de Oro (BDO) at Cagayan de Oro City; that the driver of respondent drove her to the BDO to withdraw said amount and back to the Persimmon Bakery, where respondent and Gorillo were waiting for her; that after she gave the money to respondent, the latter "executed a personal borrowing receipt."<sup>3</sup>

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<sup>1</sup> Id. at 503.

<sup>2</sup> Id. at 504.

<sup>3</sup> Id.

Without stating when, Neri further claimed that respondent borrowed another ₱35,000.00 from her, and that she brought this sum to his house at Candida, Bulua, Cagayan de Oro City; that respondent's wife was present when he took delivery of the money; that a few days later, using his cousin as intermediary, respondent borrowed another ₱15,000.00 from her; that the name of respondent's cousin is shown on the receipt, which bore the signature of respondent's cousin. Complainant added that her own cousin, Chryster Neri Babanto, was present when she handed the money to respondent's cousin.<sup>4</sup>

On July 23, 2014, respondent again called for her, and asked her to meet with him at the Centrio, a mall in Cagayan de Oro City; that although respondent had not yet paid the loans he had earlier secured from her, he again asked to borrow money from her; that at first, she was hesitant to lend respondent any additional sum, so she called up Dr. Garces and the latter expressed apprehension over the case pending before respondent; that she tried to allay the apprehension of Dr. Garces and told him that they could not do anything about it and that anyway respondent had promised her that "[the] case will be settled;" that it was only then that Dr. Garces relented, and so she (Neri) had the money withdrawn by a certain Athena at Centrio; that in the company of one Benedicta Bagtong, she gave the amount of ₱50,000.00 to respondent's wife, who at that time was eating with respondent at the Pepper Lunch in Centrio, together with their driver; that after delivering the money, respondent told her, "Don't worry Manang because I will render a decision and you will get your property."<sup>5</sup>

Complainant claimed that despite respondent's assurance, the case has remained undecided, and that respondent's accumulated loans to her and to Dr. Garces have not been paid.<sup>6</sup>

### **Sps. Salcedos' Accusation**

The Sps. Salcedo claimed that they have cases before respondent which had been pending since 2010; that one of these cases is a criminal case for reckless imprudence resulting in homicide with abandonment, while the other is a civil case for breach of contract.<sup>7</sup>

These spouses alleged that sometime in September 2010, Abeto and respondent, along with the latter's wife and respondent's driver, went to the

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<sup>4</sup> Id.

<sup>5</sup> Id. at 505.

<sup>6</sup> Id.

<sup>7</sup> Id.

Ramen Tei Restaurant in Cagayan de Oro City, to eat; that while there, respondent “asked from [him] speakers for his videoke business;” that in compliance with respondent’s request, he bought two sets of speakers amounting to ₱7,900.00 and gave these to respondent in the presence of the latter’s wife and driver.<sup>8</sup>

The spouses further alleged that three days later, respondent and his wife went to their house at 8F Abellanosa Street, Cagayan de Oro City, and asked to borrow money from them, saying that he was a newly appointed judge and had not received his salary yet; that on this occasion, respondent said he needed ₱40,000.00 for “*baon*” and for his round trip ticket in going to Manila; that he (Abeto) replied that he had no money at the time, but respondent said that he would send someone to pick up the money once he (complainant) had it; that after two days, respondent sent his sheriff, Venus Gilbolingo, to their house to pick up the money; that instead of giving the money to the sheriff, they (Salcedo spouses) themselves went to respondent’s chambers in Branch 20 of the RTC, where they delivered to respondent the amount of ₱40,000.00, in the presence of his wife.<sup>9</sup>

The spouses further alleged that when respondent and his wife went again to their house sometime in October 2010, he (Abeto) was constrained to give away their “driftwood” when respondent’s wife asked him if she could have it, after she said that it was beautiful; that respondent also requested him to have it delivered to their house; that as these two were about to leave, respondent’s wife also saw an empty karaoke box and asked him if she could buy it; that he told her that she could have it too; that in the afternoon of the same day, a Sunday, they delivered the driftwood and karaoke box to the house of respondent’s cousin in Candida Subdivision, Cagayan de Oro City, where respondent and his wife first resided; that in fact respondent and his wife personally received the items from them.<sup>10</sup>

According to these complainants-spouses, a week later, respondent intimated to him (Abeto) that he would need food and fish for their daily consumption because he had not received his salary yet, and so, every Saturday or Sunday beginning October until the end of November 2010, he (Abeto) would deliver to respondent’s house seven to eight kilos of fish, for which he had to spend between ₱1,400.00 and ₱1,500.00 for each delivery.

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<sup>8</sup> Id.

<sup>9</sup> Id. at 505-506.

<sup>10</sup> Id. at 506.

Abeto also claimed that on November 12, 2010, he (Abeto) gave respondent ₱5,000.00 through cash transfer, using the facility of the [Cebuana] Lhuiller.

Finally, Abeto recalled that sometime in September 2010, respondent told him, “Jun, your case of Reckless Imprudence resulting in Homicide with Abandonment, I will give a penalty here of eight (8) to ten (10) years so that the accused cannot apply for probation and I promise that I will render the decision in less than two (2) years.” Abeto claims that to-date this case has not been decided.<sup>11</sup>

### **Camposano’s Accusation**

Camposano alleged that she has two cases pending before respondent’s Branch 20. The first one was filed in 1995 and had been archived before respondent was appointed as presiding judge of Branch 20; and the second one involving “Brainweb Foundation, Incorporated” (complete title, docket number, and nature were not indicated) was filed on May 2, 2014.<sup>12</sup>

Camposano claimed that sometime in the second semester of 2014, respondent asked for her phone number while they were inside the court; that respondent later called her and asked to meet with her at the Gaisano Food Court in Bulua, Cagayan de Oro City; that while there, he told her that he has a problem and that he wanted to borrow money from her; and so on that occasion she lent him ₱50,000.00.<sup>13</sup>

A month later, respondent called her up again, telling her as before, that he had a problem and that he needed ₱50,000.00. They met at the Limketkai Mall, where on this occasion she gave him ₱50,000.00.<sup>14</sup>

Several weeks later, respondent called her up anew, telling her that he needed money again. At first, she told him that she had no money as she was “hard up with [her] business,” but respondent was persistent because “his need for money is very urgent.” She ended up giving him ₱25,000.00 that time.<sup>15</sup>

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<sup>11</sup> Id.

<sup>12</sup> Id. at 506-507.

<sup>13</sup> Id. at 507.

<sup>14</sup> Id.

<sup>15</sup> Id.

Asked why she continued to lend respondent money, even if his previous loans had not yet been paid, she said that it was not about the money, but because “he is the presiding judge of the court where [my] cases are pending.” She, however, did not follow respondent’s instruction that she negotiate for the settlement of her cases with the other party because she wanted justice, not negotiation.<sup>16</sup>

This complainant now asserts that respondent “can no longer render a decision” on her cases because he may also be receiving money from the other parties just like he received money from her. She claims that she was told by the other party, the defendant Cecilio Chavez, that he has a strong connection or influence with respondent, and she had reason to believe him because this Cecilio Chavez is always seen going to parties with respondent. She even claims that respondent’s court stenographer Vicky Arroyo (Vicky) knows about this.<sup>17</sup>

### **Amorillo’s Accusation**

Sometime in 2010, Amorillo, and his wife filed an application for temporary restraining order against the order of closure of their restaurant by the mayor of Cagayan de Oro City; that sometime in 2011, while inside the courtroom during one of the hearings, a woman seated behind him and his wife introduced herself as the respondent’s wife; that after the hearing and the other people inside the courtroom had left, they were personally introduced to respondent by respondent’s wife.<sup>18</sup>

Amorillo further claimed that the next day, while he and his wife were in their house at Zone 1, Bulua, Cagayan de Oro City between 6:00 p.m. and 7:00 p.m., their restaurant supervisor called up his wife, informing them that somebody by the name of “Judge Macabaya” was looking for them; and this call was made after respondent and his wife had left the restaurant.<sup>19</sup>

On the afternoon of the following day, their restaurant supervisor again called up his wife, telling her that respondent and his wife were at the restaurant and that they wanted to go to the Amorillos’ house; that Mrs. Amorillo’s, however, told the supervisor that she and her husband would go to the restaurant themselves; that when they finally met at the restaurant, Amorillo greeted respondent and his wife, “*Kumusta, napasyal ho kayo?*” To which respondent replied, “*May kailangan kami sa inyo;*” that Amorillo’s

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<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id. at 507-508.

<sup>19</sup> Id. at 508.

wife asked respondent, “*Ano po [iyon]?*” and respondent answered, “*Manghihiram sana kami, eh.*” On hearing this, the Amorillos looked at each other. Respondent then said, “*Manghihiram kami ng ₱100,000.00;*” that when Amorillo’s wife told respondent that they did not have that big amount, respondent replied, “*Kahit magkano lang,*” that Amorillo’s wife, relented and said, “*Sige, titingnan ko muna kung magkano ang maipapahiram ko sa inyo.*”<sup>20</sup>

Later on, Amorillo learned from his wife that she gave respondent and his wife ₱30,000.00. Amorillo also claimed that they also gave respondent an additional ₱20,000.00 which was handed to the latter by their restaurant supervisor named Leonila Ismael; his wife likewise informed him that the amounts she had given to respondent and his wife had already reached a total of ₱100,000.00.<sup>21</sup>

Amorillo and his wife claimed that after waiting in vain for six months for respondent and his wife to pay back their loans, he (Amorillo) and his wife went to respondent’s house, although it was only he who entered the house; that respondent and his wife were in the house at that time. Per Amorillo’s statement, the following conversation took place on this occasion<sup>22</sup> —

x x x I said, “Judge, andito ho ako para maningil na ho dun sa hiniram ninyo.” x x x “Nagalit. Nagalit in a way na nakita ko yung facial expression.” [Respondent] said, “Ha, akala ko binigay niyo na sa akin yun.” I said, “Ho? Hindi po ako mayaman para mamigay ng pera.” And I became sarcastic, “Hindi po ako pilantropo.” x x x “Pinaghirapan po namin [ang] perang yan.” [Respondent] answered, “Natulungan ko naman kayo sa kaso niyo ah. Di bale, babayaran ko yan. Lalapit din kayo sa akin. Hihingi din kayo ng tulong. My answer was this, “Judge, huwag niyo akong takutin, pareho tayong taga Maynila.” x x x<sup>23</sup>

In the midst of their exchange, respondent’s wife butted in, saying, “Akala namin bigay nyo na.”<sup>24</sup>

The above mentioned accusations were endorsed to the OCA. In a Memorandum dated July 7, 2015, Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino (DCA Aldecoa-Delorino) directed respondent to comment on said accusations.<sup>25</sup>

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<sup>20</sup> Id.  
<sup>21</sup> Id.  
<sup>22</sup> Id.  
<sup>23</sup> Id. at 509.  
<sup>24</sup> Id.  
<sup>25</sup> Id.

On September 14, 2015, respondent filed his Comment. He therein denounced the accusations against him as fabricated, self-serving, unsubstantiated, and instigated by Executive Judge Alcantar. In point of fact, respondent utterly failed to dispute, much less overthrow, the material allegations of the accusations; if anything, respondent zeroed in on the alleged bias, prejudice, and vindictiveness that must have impelled DCA Aldecoa-Delorino, supposedly in cahoots with Executive Judge Alcantar, Judge Evelyn Gamotin-Nery (Gamotin-Nery), Judge Florencia Sealana-Abbu (Sealana-Abbu), and Judge Gil Bollozos (Bollozos) all of the RTC of Cagayan de Oro City, to cause the formulation of the accusations, whose ultimate end and purpose, according to respondent, was to have him dismissed from the service.<sup>26</sup>

In a Memorandum dated July 18, 2016, DCA Aldecoa-Delorino endorsed the administrative complaints to this Court. DCA Aldecoa-Delorino recommended that complainants' accusations be treated as an administrative complaint and that the same be referred to an Associate Justice of the Court of Appeals (CA) for investigation, report, and recommendation.<sup>27</sup>

In a Resolution dated September 14, 2016, the Third Division of this Court docketed the accusations as A.M. No. RTJ-16-2475. The same Resolution directed the Executive Justice of the CA, Mindanao Station, to raffle these cases among the Justices therein for investigation, report, and recommendation within 90 days from the receipt of the records thereof.<sup>28</sup>

### **Investigation**

Immediately thereafter, notices were sent to the parties, setting the case for preliminary conference.<sup>29</sup> Before the preliminary conference, Neri however manifested that she was no longer interested in pursuing her complaint against respondent, citing her failing health and claiming that the cases pending at the *sala* of respondent had already been settled.<sup>30</sup>

Even then, trial on the merits ensued, in the course of which respondent cross-examined his accusers.<sup>31</sup>

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<sup>26</sup> Id.  
<sup>27</sup> Id. 509-510.  
<sup>28</sup> Id. at 510.  
<sup>29</sup> Id.  
<sup>30</sup> Id. at 511.  
<sup>31</sup> Id. at 510-522.



With regard to Camposano: Respondent tried to make her admit that she was merely coerced into filing a case against him by Executive Judge Alcantar, by his fellow judges at the Cagayan de Oro RTC, Judges Gamotin-Nery, Sealana-Abbu, Bollozos, and a certain Vicky Arroyo, his court stenographer at Branch 20. It is significant to note, however, that during his cross-examination of this complainant, respondent avoided touching upon the issue of his borrowing money from her (Camposano). Which means that this complainant's accusation against respondent virtually stood unchallenged.<sup>32</sup>

As to the accusation of Amorillo: It is respondent's contention that his aforementioned fellow judges in the RTC of Cagayan de Oro City had united to work for his ouster from the service. This contention is clearly devoid of merit not only because respondent has not adduced a shred of evidence that there had been bad blood or strained relations between him and his said fellow judges at the Cagayan de Oro RTC, but also because respondent, despite the ample opportunity accorded unto him, did not confront or challenge Amorillo in regard to the latter's accusation that respondent borrowed various sums of money from Amorillo and his wife.<sup>33</sup>

With respect to the claims of the Sps. Salcedo: Respondent returned to his old theme that if Salcedo spouses filed cases against him, it was because these spouses yielded to the instigation of his detractors, DCA Aldecoa-Delorino, Executive Judge Alcantar, and others. Yet, Jocelyn never wavered from her claim that respondent borrowed money from her and from her husband; that respondent also asked for speakers, driftwood, and the empty karaoke box; and that respondent moreover asked them to deliver fish for respondent's daily consumption during the time respondent had not yet allegedly received his salary. Even though respondent made light sport of the Cebuana Lhuillier receipt which tended to show that the Sps. Salcedo presented to prove that they sent money to him, Jocelyn nonetheless insisted that she and her husband had indeed sent respondent the money covered by the Cebuana Lhuillier receipt.<sup>34</sup>

### **Respondent's defense**

Taking the witness stand in his defense, respondent testified on the alleged prejudice, vindictiveness and bias against him by DCA Aldecoa-Delorino and accused her of conspiring with Cagayan de Oro RTC Executive Judge Alcantar, and with fellow Judges Gamotin-Nery, Sealana-

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<sup>32</sup> Id. at 513.

<sup>33</sup> Id. at 513-517.

<sup>34</sup> Id. at 518-522.

Abbu, and Bollozos at the Cagayan de Oro RTC to ensure that he is dismissed from the service based on the accusations of complainants.<sup>35</sup> He also assailed the character of the complainants Camposano, Amorillo, and Sps. Salcedo. He insisted that their respective allegations against him are unsubstantiated by the evidence and are riddled with inconsistencies.<sup>36</sup>

### **Discussion and Recommendation**

In his Resolution of September 28, 2017, Investigating Justice Ronaldo B. Martin (Investigating Justice) of the CA found the testimonies of Camposano, Amorillo, and Sps. Salcedo candid, straightforward, and categorical. The Investigating Justice observed that said complainants remained steadfast in their claims that respondent did indeed borrow money in various amounts from them. The Investigating Justice also noted that during respondent's cross-examination of these complainants, respondent clearly avoided touching upon the point that he borrowed money from these complainants; and that if anything, respondent merely limited himself to belaboring the theory that complainants were just simply coerced into filing complaints against him as part of the alleged grand design of DCA Aldecoa-Delorino, Executive Judge Alcantar, and Judges Gamotin-Nery, Sealana-Abbu, and Bollozos to oust him from the service.<sup>37</sup> The dispositive portion of the Report reads:

**IN VIEW OF THE FOREGOING**, it is respectfully recommended that respondent Judge Bonifacio M. Macabaya, Presiding Judge of the Regional Trial Court, Branch 20, in Cagayan de Oro City, be **DISMISSED** from the service, with forfeiture of all retirement benefits, except accrued leave credits, with prejudice to re-employment in any government agency or instrumentality.

RESPECTFULLY SUBMITTED.

### **The Issue**

The chief issue that clamors for resolution by this Court is whether respondent should be held administratively liable as charged.

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<sup>35</sup> Id. at 522.

<sup>36</sup> Id. at 523.

<sup>37</sup> Id. at 532.

### **Ruling of the Court**

After a judicious review of the records, the Court finds no cogent reason to reject or overturn the findings and recommendation of the CA's Investigating Justice, which we hereby adopt *in toto*:

Here, respondent Judge is accused by complainants, namely: Amorillo Camposano, Neri and spouses Salcedo, of borrowing money from them while their respective cases were pending before respondent Judge's sala. To reiterate, the administrative charge for gross misconduct stemmed from sworn statements that complainants executed before Executive Judge Dennis Z. Alcantar of the RTC in Cagayan de Oro City and forwarded to the OCA. The OCA endorsed the administrative case to the Supreme Court which gave due course to the complaint and referred the same to the investigating Justice for investigation, report and recommendation.

In the case at bar, complainants were not represented by counsel and in the course of the proceedings, Neri even manifested that she is no longer interested in pursuing her complaint against the respondent Judge. However, the investigating Justice takes judicial notice of the fact that while withdrawing her complaint, Neri stressed that what is alleged in her sworn statement is the truth.

Despite not being represented by counsel, Amorillo, Camposano and spouses Salcedo endeavored to present their respective judicial affidavits in support of their claim of gross misconduct on the part of respondent Judge. In fact, the respective affidavit of Amorillo, Camposano and Jocelyn Salcedo were marked in evidence and upon testifying as to its veracity, respondent Judge extensively cross-examined said complainants.

The gist of complainants' respective complaints is that while their respective cases were pending before the sala of respondent Judge, the latter sought them outside the courtroom and borrowed a large sum of money from them. In the case of spouses Salcedo, respondent Judge and his wife even asked for speakers, driftwood, empty karaoke box and weekly delivery of fish for their daily consumption. The fact that they all have pending cases before respondent Judge, complainants were thus constrained to accommodate respondent Judge and give him money.

The act complained of is classified as a serious charge pursuant to Section 8(7), Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, which reads:

SEC. 8. Serious charges. – Serious charges include:

1. Bribery, direct or indirect;
2. Dishonesty and violations of the Anti-Graft and Corrupt Practices Law (R.A. No. 3019);
3. Gross misconduct constituting violations of the Code of Judicial Conduct;

4. Knowingly rendering an unjust judgment or order as determined by a competent court in an appropriate proceeding;
5. Conviction of a crime involving moral turpitude;
- 7. Borrowing money or property from lawyers and litigants in a case pending before the court;**
8. Immorality;
9. Gross ignorance of the law or procedure;
10. Partisan political activities; and
11. Alcoholism and/or vicious habits. (Emphasis supplied)

In this regard, the investigating Justice must stress that the burden of substantiating the charges in an administrative proceeding against court officials and employees falls on the complainant, who must be able to prove the allegations in the complaint with substantial evidence. Corollarily, it is well-settled that in administrative cases, substantial evidence is required to support any findings. Substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The requirement is satisfied where there is reasonable ground to believe that the petitioner is guilty of the act or omission complained of, even if the evidence might not be overwhelming.

Anent the allegation that respondent Judge borrowed money from litigants in cases pending before this court, there is substantial evidence to hold respondent Judge liable for violation of Section 8(7) of Rule 140 of the Rules of Court.

While it is acknowledged that complainants do not have documentary evidence in support of the alleged loans, with the exception of the Cebuana Lhuiller receipt that spouses Salcedo offered in evidence to attest to the fact that they sent ₱5,000.00 to respondent Judge on November 12, 2011, the investigating Justice is convinced of the veracity of their respective claims. Testimonies are to be weighed, not numbered; thus it has been said that a finding of guilt may be based on the uncorroborated testimony of a single witness when the tribunal finds such testimony positive and credible.

The sworn statements of the complainants as reiterated in their respective judicial affidavits are straightforward and uncomplicated. In the simplest of terms, they narrated how respondent Judge separately approached them while they have cases pending before his court and borrowed money from them. The investigating Justice finds no reason to doubt their credibility. Amorillo, Camposano and Jocelyn respectively testified in a candid, straightforward and categorical manner. Complainants remained steadfast in their assertion that respondent Judge borrowed from them despite the fact that it was respondent Judge himself who cross-examined them.

It is noteworthy that during his exhaustive cross-examination of complainants, respondent Judge did not in fact meet head on the allegations that he borrowed money from complainants. It would have been a perfect time for him to confront complainants and establish the falsity of their claim. Curiously, respondent Judge instead opted to harp on

his theory that complainants were just coerced to file a complaint against him as part of the grand design of Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino and Judges Alcantar, Neri, Abbu and Bollozos to harass him and cause his dismissal from service. Respondent Judge merely skimmed over the crux of the controversy which is the alleged borrowing of money from litigants who have cases in his court.

Even in his counter affidavit, respondent Judge only made a cursory denial of the alleged borrowing of money from complainants. Once, again, respondent Judge was transfixed in his conspiracy theory that the aforementioned judges were out to get him. Unfortunately, respondent Judge failed altogether to establish any motive on the part of the aforementioned personalities to falsely accuse him of gross misconduct. Respondent Judge himself admitted that there was no animosity between him and the RTC judges that he claims are conspiring to cause his dismissal from service.

More importantly, the investigating Justice cannot accept respondent Judge's theory that Judge Evelyn Gamotin-Nery, in conspiracy with Deputy Court Administrator Jenny Lind R. Aldecoa-Delorino and Judges Alcantar, Abbu and Bollozos, orchestrated the filing of administrative cases against him because he earned Judge Nery's ire when he was appointed as an Acting Judge in the RTC of Malaybalay City, Bukidnon. It must be underscored that respondent Judge is espousing the arguments that Judge Nery is envious of the ₱6,000.00 allowance that he gets as said acting judge of the RTC of Malaybalay City, and wanted to appropriate said amount for herself. However, aside from being unfounded, the investigating Justice finds respondent Judge's rationalization incredulous. It is highly unlikely that an esteemed judge would go so low as to ruin a fellow judge's career for a measly sum of ₱6,000.00. Such money is preposterous, if not absurd.

Also, the investigating Justice cannot accord any probative weight on the certification that respondent Judge presented in evidence, the sole purpose of which was to rebut the authenticity of the Cebuana Lhuillier receipt that spouses Salcedo submitted in evidence. Indeed, said certification has no probative value for being hearsay.

Well-entrenched is the rule that a private certification is hearsay where the person who issued the same was never presented as a witness. The same is true of letters. While hearsay evidence may be admitted because of lack of objection by the adverse party's counsel, it is nonetheless without probative value. Stated differently, the declarants of written statements pertaining to disputed facts must be presented at the trial for cross-examination. The lack of objection may make an incompetent evidence admissible, but admissibility of evidence should not be equated with weight of evidence. Indeed, hearsay evidence whether objected to or not has no probative value.

In fine, respondent Judge's general denial carries little weight. As the preceding paragraphs will show, the charge against respondent Judge is very specific, testified to by complainants, which respondent Judge had the opportunity to directly address and explain, but he merely glossed over. Respondent Judge's claim that the complaints against him are merely

instigated by Judges Alcantar, Neri, Abbu and Bollozos is uncorroborated and self-serving.

In view of the absence of a specific denial on the part of respondent Judge, he is thereby deemed to have tacitly admitted the allegation that he had indeed obtained a loan from each of the complainants while their cases are pending before his court. It is settled that the purpose of requiring specific denials from the defendant is to make the defendant disclose the "matters alleged in the complaint which he [or she] succinctly intends to disprove at the trial, together with the matter which he [or she] relied upon to support the denial."

Even assuming *arguendo* that complainants were encouraged to come forward and disclose their experience with respondent Judge by Executive Judge Dennis Z. Alcantar, the same does not detract from the veracity of the complainants' claim. The fact remains that respondent Judge did borrow money from complainants who are litigants with pending cases before his court. The act alone is patently inappropriate and constitutes gross misconduct on the part of respondent Judge.

The proscription against borrowing money or property from lawyers and litigants in a case pending before the court is imposed on Judges to avoid the impression that the Judge would rule in favor of a litigant because the former is indebted to the latter.

The impropriety of borrowing money from litigants in cases before the court is underscored by the broad tenets of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary. Under Section 13 of Canon 4, "judges and members of their families shall neither ask for, nor accept, any gifts, bequest, loan or favor in relation to anything done or to be done or omitted to be done by him or her in connection with the performance of judicial duties."

Once again, there is a need to stress that judges must adhere to the highest tenets of judicial conduct. Because of the sensitivity of his position, a judge is required to exhibit, at all times, the highest degree of honesty and integrity and to observe exacting standards of morality, decency and competence. He should adhere to the highest standards of public accountability lest his action erode the public faith in the Judiciary.

As a magistrate, the respondent Judge should have known that he is the visible representation of the law, and more importantly, of justice. It is from him that the people draw their will and awareness to obey the law. For the judge to return that regard, he must be the first to abide by the law and weave an example for others to follow. On this point, respondent Judge clearly failed in his mandate when he unabashedly sought out complainants who are litigants with pending cases before his court and repeatedly borrowed money from them, even going so far as asking spouses Salcedo to provide fish/viand for respondent Judge's family for more than a month. The repetitiveness of respondent Judge's acts shows his proclivity in transgressing the law and conducting himself in a manner that is unbecoming a member of the bench.

All told, respondent Judge is found guilty of violating paragraph 7, Section 8, Rule 140 of the Rules of Court (borrowing money from litigants in cases pending before his court) which is also a gross misconduct constituting violation of the Code of Judicial Conduct.

Under Section 8 of Rule 140 of the Rules of Court, it is a serious charge to borrow money or property from lawyers and litigants in a case pending before the court. Under Section 11(A) of the same rule, an act that violates the Code of Judicial Conduct constitutes gross misconduct, which is also a serious charge. In either instance, a serious charge is punishable by (1) dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits; (2) suspension from office without salary and other benefits for more than three but not exceeding six months; or (3) a fine of more than ₱20,000.00 but not exceeding ₱40,000.00.

All those who don the judicial robe must always instill in their minds the exhortation that the administration of justice is a mission. Judges, from the lowest to the highest levels, are the gems in the vast government bureaucracy, beacon lights looked upon as the embodiments of all what is right, just and proper, the ultimate weapons against injustice and oppression.

Those who cannot meet the exacting standards of judicial conduct and integrity have no place in the judiciary. Perforce, the investigating Justice deems it appropriate to recommend the imposition of an administrative penalty of dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations, provided, however, that the forfeiture of benefits shall in no case include accrued leave credits against respondent Judge.<sup>38</sup>

Against the foregoing backdrop, it becomes this Tribunal's bounden duty to decree respondent's dismissal from the service.

**WHEREFORE**, Judge Bonifacio M. Macabaya, Presiding Judge of Branch 20 of the Regional Trial Court of Cagayan de Oro City (RTC), is hereby found guilty of violating paragraph 7, Section 8, Rule 140 of the Rules of Court (borrowing money from litigants in cases pending before the court) which is also a gross misconduct constituting violation of the New Code of Judicial Conduct. He is **DISMISSED** from the service, with forfeiture of all retirement benefits, (except accrued leave credits), with prejudice to re-employment in any government agency or instrumentality. Immediately upon receipt by respondent of this decision, he is deemed to have vacated his office and his authority to act as judge is considered automatically terminated.

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<sup>38</sup>

Rollo (Vol. II), pp. 1064-1071.


**SO ORDERED.**



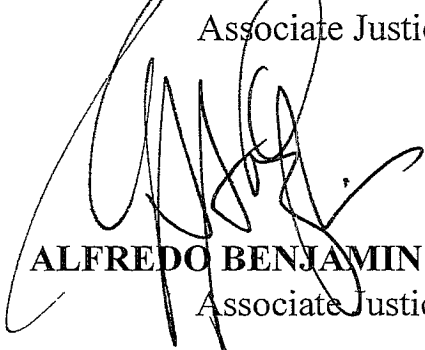
**DIOSDADO M. PERALTA**  
Chief Justice




**ESTELA M. PERLAS-BERNABE**  
Associate Justice



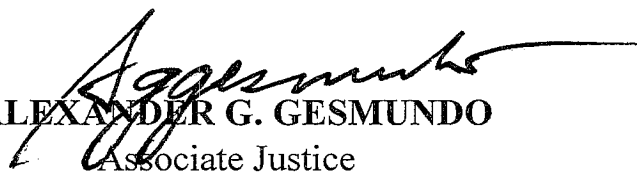
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Associate Justice



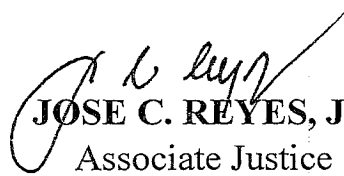
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice




**ALEXANDER G. GESMUNDO**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice


*(On official leave)*  
**RAMON PAUL L. HERNANDO**  
Associate Justice



**ROSMARI D. CARANDANG**  
Associate Justice

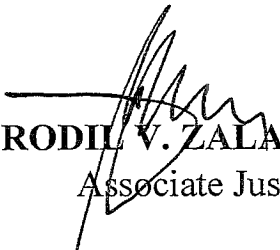


**AMY C. LAZARO-JAVIER**  
Associate Justice

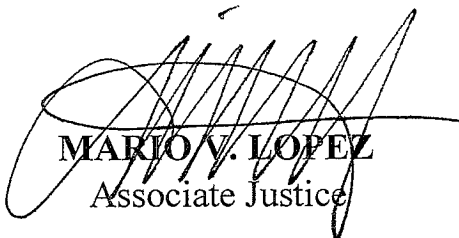


**HENRI JEAN PAUL B. INTING**  
Associate Justice





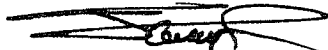
**RODIL V. ZALAMEDA**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice



**EDGARDO L. DELOS SANTOS**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice