

## FIRST DIVISION

**[ ADM. MATTER No. RTJ-00-1581 (Formerly OCA  
IPI No. 98-635-RTJ), July 02, 2002 ]**

**GOVERNOR MAHID M. MUTILAN, PETITIONER, VS. JUDGE  
SANTOS B. ADIONG, REGIONAL TRIAL COURT, BRANCH 8,  
MARAWI CITY, RESPONDENT.**

### DECISION

**VITUG, J.:**

An administrative complaint charging Judge Santos Adiong of the Regional Trial Court of Marawi City, Branch 8, with gross ignorance of the law, incompetence, and violation of the Anti-graft and Corrupt Practices Act, has been filed by Governor Mahid Mutilan of the Province of Lanao del Sur before the Office of the Court Administrator. The complaint finds its roots in SPC Civil Case No. 507-98 for mandamus and damages, entitled "*Hadji Mangata Mangondato, Sambitory Macadadaya, Mangoramas M.H. Casan, Ms. Umbos Datudacula, Mohmina Pandapatan, Engr. Omar P. Disomangcop, Hadji Hassan D. Montay, Mrs. Sakina A. Cosain and Alonto B. Casir, petitioners vs. Province of Lanao del Sur, Governor Dr. Mahid Mutilan and Anisah D. Usodan, Macapagal Macalaba / Swaib Mohamad in their official capacity / OIC-Provincial Treasurer or any person acting as provincial treasurer of Lanao del Sur, respondents,*" involving unpaid salaries of the petitioners from the provincial government. Complainant, a respondent in SPC Civil Case No. 507-98, claims that Judge Adiong has assumed jurisdiction over the petition immediately upon its filing without conducting any raffle, and that the judge has issued an order requiring the provincial government to answer within ten (10) days from receipt of the petition without it having first been served on complainant.

It would appear that in an order, dated 24 September 1998, Judge Adiong granted the motion of the petitioners to declare the respondents in default. Upon learning of the order of default, the provincial government, through its counsel Attorney Johnny Marohombsar, filed a motion to set aside the order of default and scheduled its hearing on 14 October 1998. Judge Adiong, nevertheless, rendered on 5 October 1998, promulgated the following day, a judgment ordering the provincial government of Lanao del Sur "to process, sign and approve the claim vouchers of the petitioners and to pay their just and valid claims in the total amount of P562,966.93; to pay jointly and severally in their official capacities as such respondents to the petitioners the sum of P500,000.00 for moral damages; to pay or indemnify jointly and severally the petitioners the sum of P30,000.00 plus 10% of petitioners' total claims as attorney's fees and to pay the costs." A copy of the decision was served on and received by the Provincial Government of Lanao del Sur on 6 October 1998. On the same day, the petitioners filed a joint motion for garnishment on any account or accounts of the Province of Lanao del Sur, Governor Mahid Mutilan, and the Provincial Treasurer with the Philippine National Bank (PNB), Marawi City, for payment of the adjudged claims which was forthwith granted by

Judge Adiong. On 8 October 1998, the petitioners filed a motion for contempt and asking that the PNB immediately release the funds to satisfy the judgment. In an order, dated 09 October 1998, Judge Adiong, acting on the motion, ordered the PNB to immediately release the funds and the bank manager to explain within 72 hours why she should not be cited for contempt. In a memorandum, dated 9 October 1998, Sandra M. Ambor, Senior Assistant Manager of the PNB, ordered the release of the amount of P1,154,263.62 to the court in SPC Civil Case No. 507-98. Subsequently, Judge Adiong issued an order, dated 9 October 1998, directing Sheriff Rimbang Paniambaan to encash the check and disposed of it in accordance with the decision of 5 October 1998.

Required to comment, respondent judge maintained that the complaint was a form of harassment against him due to the adverse rulings suffered by complainant. He denied the charge that no raffle was conducted. He submitted the affidavit of Cairoding P. Maruhom, Clerk of Court IV, attesting to the fact that Civil Case No. 507-98 was among the fifteen (15) cases raffled on 01 October 1998 in which the case was assigned to respondent judge. He averred that he had issued an order requiring complainant to answer the petition for mandamus which order was duly served. For failing to file an answer within the reglementary period, the respondents were, upon motion filed by the petitioners, declared in default. Subsequently, a judgment by default was served on the provincial government. Respondent judge maintained that Attorney Johnny Marohombsar, counsel for the provincial government, only filed his entry of appearance when he submitted the motion to lift the order of default on 05 October 1998. Respondent judge denied having been benefited from the amount garnished and later awarded to the petitioners. There was, he said, no undue injury to the provincial government since the claims of the petitioners represented their unpaid salaries, ACA/PERA, mid-year bonus and RATA for the past 5 or 6 months.

The Office of the Court Administrator ("OCA"), in its memorandum of 27 June 2000, found respondent judge to have ignored established rules and legal principles, and it recommended that respondent judge be ordered to pay a fine of one thousand pesos (P1,000.00), with a stern warning that a repetition of the same or similar act would be dealt with severely. The Court, in its resolution of 02 August 2000, required the parties to manifest within twenty (20) days from notice, whether they were submitting the case on the basis of the pleadings/records theretofore on file. On 22 November 2000, the Court, noting the compliance/manifestation of complainant who opted for a hearing of the case in order to cross-examine respondent judge and to verify the authenticity of the documents he had submitted, referred the case to the Court of Appeals, thereupon assigned to Associate Justice Remedios Salazar-Fernando, for investigation, report and recommendation.

On 02 July 2001, Investigating Justice Salazar-Fernando submitted her report and findings:

"One of the substantial changes in the rule on the declaration of default introduced in the 1997 Rules of Civil Procedure is that the defendant must be notified of the motion and of the order of default, to wit:

"` Sec. 3. *Default; declaration of.* – If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party **with notice to the**