

FIRST DIVISION

[A.M. No. P-99-1287, January 26, 2001]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
ATTY. MISAEL M. LADAGA, BRANCH CLERK OF COURT, REGIONAL
TRIAL COURT, BRANCH 133, MAKATI CITY, RESPONDENT.**

R E S O L U T I O N

KAPUNAN, J.:

In a Letter, dated August 31, 1998, respondent Atty. Misael M. Ladaga, Branch Clerk of Court of the Regional Trial Court of Makati, Branch 133, requested the Court Administrator, Justice Alfredo L. Benipayo, for authority to appear as *pro bono* counsel of his cousin, Narcisa Naldoza Ladaga, in Criminal Case No. 84885, entitled "*People vs. Narcisa Naldoza Ladaga*" for Falsification of Public Document pending before the Metropolitan Trial Court of Quezon City, Branch 40.^[1] While respondent's letter-request was pending action, Lisa Payoyo Andres, the private complainant in Criminal Case No. 84885, sent a letter to the Court Administrator, dated September 2, 1998, requesting for a certification with regard to respondent's authority to appear as counsel for the accused in the said criminal case.^[2] On September 7, 1998, the Office of the Court Administrator referred the matter to respondent for comment.^[3]

In his Comment,^[4] dated September 14, 1998, respondent admitted that he had appeared in Criminal Case No. 84885 without prior authorization. He reasoned out that the factual circumstances surrounding the criminal case compelled him to handle the defense of his cousin who did not have enough resources to hire the services of a counsel *de parte*; while, on the other hand, private complainant was a member of a powerful family who was out to get even with his cousin. Furthermore, he rationalized that his appearance in the criminal case did not prejudice his office nor the interest of the public since he did not take advantage of his position. In any case, his appearances in court were covered by leave application approved by the presiding judge.

On December 8, 1998, the Court issued a resolution denying respondent's request for authorization to appear as counsel and directing the Office of the Court Administrator to file formal charges against him for appearing in court without the required authorization from the Court.^[5] On January 25, 1999, the Court Administrator filed the instant administrative complaint against respondent for violating Sec. 7(b)(2) of Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," which provides:

Sec. 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby

declared to be unlawful:

x x x

- (b) Outside employment and other activities related thereto.-
Public officials and employees during their incumbency
shall not:

x x x

- (2) Engage in the private practice of their profession
unless authorized by the Constitution or law,
Provided, that such practice will not conflict or
tend to conflict with their official functions;

In our Resolution, dated February 9, 1999, we required respondent to comment on the administrative complaint.

In his Comment, respondent explained that he and Ms. Ladaga are "close blood cousins" who belong to a "powerless family" from the impoverished town of Bacauag, Surigao del Norte. From childhood until he finished his law degree, Ms. Ladaga had always supported and guided him while he looked up to her as a mentor and an adviser. Because of their close relationship, Ms. Ladaga sought respondent's help and advice when she was charged in Criminal Case No. 84885 for falsification by the private complainant, Lisa Payoyo Andres, whose only purpose in filing the said criminal case was to "seek vengeance" on her cousin. He explained that his cousin's discord with Ms. Andres started when the latter's husband, SPO4 Pedro Andres, left the conjugal home to cohabit with Ms. Ladaga. During the course of their illicit affair, SPO4 Andres and Ms. Ladaga begot three (3) children. The birth certificate of their eldest child is the subject of the falsification charge against Ms. Ladaga. Respondent stated that since he is the only lawyer in their family, he felt it to be his duty to accept Ms. Ladaga's plea to be her counsel since she did not have enough funds to pay for the services of a lawyer. Respondent also pointed out that in his seven (7) years of untainted government service, initially with the Commission on Human Rights and now with the judiciary, he had performed his duties with honesty and integrity and that it was only in this particular case that he had been administratively charged for extending a helping hand to a close relative by giving a free legal assistance for "humanitarian purpose." He never took advantage of his position as branch clerk of court since the questioned appearances were made in the Metropolitan Trial Court of Quezon City and not in Makati where he is holding office. He stressed that during the hearings of the criminal case, he was on leave as shown by his approved leave applications attached to his comment.

In our Resolution, dated June 22, 1999, we noted respondent's comment and referred the administrative matter to the Executive Judge of the Regional Trial Court of Makati, Judge Josefina Guevarra-Salonga, for investigation, report and recommendation.

In her Report, dated September 29, 1999, Judge Salonga made the following findings and recommendation:

There is no question that Atty. Misael Ladaga appeared as counsel for and in behalf of his cousin, Narcisa Naldoza Ladaga, an accused in Criminal