

EN BANC

[A.M. No. RTJ-99-1486, June 26, 2001]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE ISMAEL SANCHEZ Y BALAIS, REGIONAL TRIAL COURT,
LUCENA CITY, RESPONDENT.**

RESOLUTION

PER CURIAM:

A judge is the visible representation of the law and, more importantly, of justice.^[1] He must be first in observing the law scrupulously. Any appearance of criminal violation of the law, in any way or capacity, directly or indirectly, principal or accessing, will warrant the judge to be disrobed. We cannot tolerate a discordant robe in the judiciary. This is the case of Judge Ismael B. Sanchez.

On 25 June 1999, the Chief Justice received an anonymous letter^[2] from a "Group to Clean the Judiciary of Lucena City" informing the Court of the misconduct of Judge Ismael B. Sanchez for using a car involved in a carjacking case in his sala.

By First Indorsement,^[3] the Chief Justice referred the letter to the Court Administrator for appropriate action.

In view of the indorsement, Justice Narciso T. Atienza (Ret.), a consultant of the Office of the Court Administrator (OCA), made a discreet inquiry on the reported impropriety to coincide with an on-the-spot audit of the Regional Trial Court, Quezon, Branch 57, Lucena City, and the follow-up audit in Branch 53, same court. This was to divert the attention of the court employees who may be able to give information on the whereabouts of the car.

On the basis of the Report that Justice Atienza submitted, on 20 August 1999, the Court Administrator recommended to the Chief Justice that: ^[1] the Investigation Report of Justice Atienza be considered as an administrative complaint against Judge Ismael B. Sanchez; ^[2] the case be docketed as an administrative matter; ^[3] Judge Sanchez be required to comment thereon within ten (10) days from notice; and ^[4] upon receipt thereof, the case be assigned to a Justice of the Court of Appeals for investigation, report and recommendation.^[4]

Upon the filing of the respondent Judge's Comment,^[5] on 27 June 2000, the Court resolved to refer the case to Associate Justice Mercedes Gozo-Dadole of the Court of Appeals for investigation, report and recommendation within ninety (90) days from receipt of the records.^[6]

After due investigation, on 21 March 2001, Justice Dadole submitted a Report and

Recommendation summarizing the facts, thus:

"This administrative case started when a letter dated June 17, 1999 from "a Group to Clean the Judiciary of Lucena" was sent to the Honorable Chief Justice of the Supreme Court wherein the following information was provided:

"That a case for violation of the Anti-Carnapping Act (Rep. Act No. 6539) entitled "*People vs. SPO4 Rim Mulbog y Morales*" docketed as Criminal Case No. 96-460 was filed in Lucena City and assigned to Branch 58 (Regional Trial Court) presided by Judge Sanchez; that the car involved is a gray Toyota Corolla four-door sedan with engine number 2E-2816712 and chassis number EE100-9539128; that on October 28, 1996, the said case was provisionally dismissed on the ground that the owner of the car is unknown; that in an office order dated November 27, 1996, Judge Sanchez authorized the process server of Branch 58, Mr. Jose D. Lopez, to receive and accept from the District Director, PNP, Traffic Management District IV, Camp Vicente Lim, Laguna, the said car for delivery to the Chief of Police, PNP, Lucena City for safekeeping; that on November 30, 1996, said car was received by Mr. Lopez after signing an undertaking; that said car was, however, not delivered to the Chief of Police, PNP, Lucena City because Judge Sanchez took custody thereof for his personal use; and that after using the car in Lucena City for a few months, Judge Sanchez brought the car to his residence in Pasig and thereafter the car was never seen again in Lucena City.^[7]

"Pursuant to the First Indorsement dated June 28, 1999, the aforementioned letter of June 17, 1999 was endorsed by the Chief Justice for appropriate action by the Honorable Court Administrator^[8] who in turn directed Justice Narciso P. Atienza (ret.), consultant of the Office of the Court Administrator (OCA), to conduct a discreet inquiry on the matter resulting in the submission of the Report dated August 2, 1999 by the latter^[9] wherein the following facts were shown:

"In the morning of July 28, 1999, while the Audit Team was conducting the on-the-spot audit in RTC Branch 57, the undersigned went to the Office of the Chief of Police of Lucena City, to inquire whether the car subject of Crim. Case No. 96-460 for Carnapping was turned over to the Chief of Police for safekeeping and follow-up investigation as per order of the court dated October 28, 1996. The Chief of Police was not in his office, but the undersigned was able to talk to the Deputy Chief of Police, Senior Inspector Ricardo Villanueva.

"In his conversation with the Deputy Chief of Police, the

undersigned was informed that the subject car was not turned over to the Chief of Police for safekeeping and follow-up investigation. The Deputy Chief of Police said that their office did not receive even a copy of the order, xerox copy of which was shown to him. He brought the undersigned to the place where vehicles are impounded to view the place, and he did not see any Toyota Corolla car there.

"In view of the information given by the Deputy Chief of Police, the undersigned went to RTC Branch 58 and asked for Mr. Lopez, the Process Server who was earlier directed by the court to take temporary custody of the car during pendency of the case. Mr. Lopez was not in his office the whole day because he served summons at No. 1717, T.P. Building, Jose Abad Santos, Tondo, Manila.

"On the following day, (July 29, 1999), the undersigned met Mr. Lopez in his office. When queried on the whereabouts of the car, after showing to him the xerox copy of the order dated October 28, 1996, which was attached to the basic communication, Mr. Lopez said that the car is in the possession of Judge Sanchez since October 1998.

"Mr. Lopez narrated that he did not turn over the custody of the car to the Chief of Police because on December 6, 1996, the court issued an order transferring the custody and possession of the car to the court. Mr. Lopez claimed that after the car was repaired and the missing parts replaced, the car remained in his custody and it was used by the court on official matters where use of motor vehicle is necessary.

"The subject car is not within the vicinity of the court when the inquiry was conducted on July 28, 29, 1999. The undersigned was informed by a court employee who requested not to be identified that the subject car was brought by Judge Sanchez to his residence in Pasig, Metro Manila.^[10]

"This investigation report of Justice Atienza was considered by the Honorable Supreme Court as an administrative complaint against Judge Sanchez and at the same time required him to file his comment, per Resolution en banc, dated September 21, 1999^[11] which he readily complied with by submitting his Comment dated October 28, 1999.^[12]

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x x x

x x x

"Due to the admissions made by the respondent judge during the preliminary conference held on September 22, 2000 per Resolution of even date, to wit:

"1.] That the subject motor vehicle is in the custody and possession of respondent Judge since December 1997 until the present;

"2.] That an Order dated December 6, 1996 was issued by respondent judge after the criminal case assigned before RTC Branch 58, Lucena City, docketed therein as Criminal Case No. 96-460, entitled *People of the Philippines vs. SPO4 Rim Mulbog y Morales*, was provisionally dismissed;

"3.] That per Office Order, Mr. Jose Lopez, the process server of RTC, Branch 58, Lucena City took custody of the subject motor vehicle from the Traffic Management Command of Camp Vicente Lim, Canlubang, Laguna;

"4.] That on July 31, 1996, the subject car was subjected to macro etching examination by the laboratory technician of Camp Vicente Lim, Canlubang, Laguna with the finding that the engine number and chassis number were tampered;

"5.] That on October 1, 1996, a certain Rodolfo Guerrero executed an affidavit disclaiming ownership of the said motor vehicle;

"6.] That an Order dated October 28, 1996 was issued ordering the provisional dismissal of the aforementioned criminal case and at the same time, ordering the Director, Traffic Management District IV, Camp Vicente Lim, Canlubang, Laguna, to deliver the subject motor vehicle to the Chief of Police of Lucena City for safekeeping;

"7.] That on December 6, 1996, the respondent judge issued an order transferring the custody of the subject car to the court instead of the Chief of Police of Lucena City;

"8.] That the process server Jose Lopez has executed an affidavit dated July 29, 1999; and

"9.] That there is no garage or storage facilities within the court premises wherein the subject car can be restored.

complainant only presented and submitted documentary evidence, to wit:

x x x

x x x

x x x

"On the other hand, respondent's evidence consists of his oral testimony and together with his documentary evidence, established the following facts:

"That he is the presiding judge of the Regional Trial court, Branch 58, Lucena City having assumed as such since April 1, 1996, up to the present time.

"That he is the respondent in Adm. Case No. RTJ-99-1486 pending investigation before Associate Justice Mercedes Gozo-Dadole pursuant to the Supreme Court Resolution dated September 21, 1999, wherein the Investigation Report of (Ret.) Justice Narciso T. Atienza dated August 2, 1999 was considered as "an administrative complaint" against herein affiant.

"That in the Memorandum dated August 20, 1999 by Court Administrator Alfredo L. Benipayo and Assistant OIC, Danilo L. Mendoza, it affirmed the investigation report of Justice Narciso Atienza, although, it is very apparent that said investigation report did not charge him of any specific offense or charge. However, from the reading of the Memorandum dated August 20, 1999, it may be gleaned that he is being charged of "alleged misappropriation of a car involved in an anti-carnapping case."

"That as required by the aforementioned Supreme Court Resolution dated September 21, 1999, he filed his written Comment dated October 28, 1999 wherein his intention was made very clear that "guided by the legal principle of *custodia legis* with the end in view of safekeeping and preservation of the property subject of an alleged crime" he took temporary custody of the car "subject to the claim of the true and real owner, once identified, and shall come out to claim the same";

"That he vehemently, denied having misappropriated or that he cannot be held accountable for said motor vehicle. In fact, during the hearing held on September 22, 2000, he requested for authority from Investigating Justice Dadole to transport and turn over the motor vehicle to the District Director of PNP, Traffic Management District IV, Camp Vicente Lim, Canlubang, Laguna and it was actually turned over on November 12, 2000, as evidenced by a Technical Inspection and Inventory Report of POI Neil G. Cruzado;

"That it must also be emphasized that he did not and never used said car for his own personal use whether in Lucena City, the place of his official station or in his place of residence in Pasig City. From its recovery from Camp Vicente Lim, Laguna on November 30, 1996, said car was under the actual and physical custody of the Court's process server, Mr. Jose D. Lopez considering that there is no garage or storage facility within the Court's premises wherein the subject car can be stored. The truth being, the custody by the Court is purely for safekeeping and storage purposes only;