

SECOND DIVISION

[A.M. No. RTJ-99-1441, May 28, 1999]

**ROMULO F. MANUEL BY HORACIO M. PASCUAL,
COMPLAINANT VS. JUDGE DEMETRIO D. CALIMAG, JR.,
RESPONDENT.**

D E C I S I O N

BELLOSILLO, J.:

On 17 April 1997 the Office of the Court Administrator received a sworn letter-complaint from Horacio M. Pascual charging Judge Demetrio D. Calimag, Jr. of RTC-Br. 35, Santiago City with dishonesty and serious misconduct prejudicial to the integrity and dignity of the judiciary for selling and causing to be sold a carnapped motor vehicle.

Complainant alleged that on 10 March 1991 respondent Judge sold to complainant's late father, Benjamin Manuel, a Toyota Corolla with Plate No. CBC-901. Sometime in February 1997 the subject car was apprehended by members of the Philippine National Police (TRAFCOM) while being driven by complainant along the national highway of San Mateo on suspicion of being a carnapped vehicle. Complainant was booked for violation of Anti-Fencing Law and his driver's license was confiscated. Since then, the subject vehicle has been impounded.

Complainant further narrated that the subject vehicle was first seized by elements of the Philippine National Police (Constabulary Highway Patrol Group) on 4 March 1992 allegedly for being a stolen vehicle. However, respondent Judge was able to secure the conditional release of the car by executing under oath that he would hold himself criminally or civilly liable for violation of any of the conditions set forth therein.

On 22 May 1997 the letter-complaint was referred to respondent Judge for comment. In his Answer respondent Judge denied the allegations in the complaint and asserted that he sold the car to Benjamin Manuel on 10 March 1991 in good faith as he had no knowledge of any infirmity or defect in the title of the car which he bought from his brother, Francisco Calimag, and who in turn purchased it from Rafael Mabbayad of Echague, Isabela. Respondent pointed out that he did not encounter any problem at all when he transferred the ownership of the car in his name. When the car was first seized by members of the Constabulary Highway Patrol Group on 4 March 1992, he was able to obtain its release on account of the absence of convincing evidence or proof that the car was indeed a carnapped vehicle.

Finding that a material conflict exists between complainant's allegations and respondent's comment and that no definitive finding could be made on the basis merely of the pleadings submitted, the Office of the Court Administrator

recommended that the complaint be referred to an Associate Justice of the Court of Appeals for investigation, report and recommendation.

Thus on 14 October 1998 this Court referred the complaint to Associate Justice Teodoro P. Regino of the Court of Appeals. Hearings were conducted on 14 December 1998, 11 January 1999 and 26 January 1999. Upon evaluation of the evidence presented, the Investigating Justice found -

Complainant failed to substantiate his allegation that the subject car was a wanted carnapped vehicle. The presentation of the computer print-out with the heading "Inquiry" issued by the "Wanted/Stolen Vehicle Info System" (Exhibit "D") and the Certification (Exhibit "E") issued by the apprehending officer, SPO4 Teodoro Duldulao of the Isabela Traffic Management Office, Santiago City are insufficient to impugn the legitimacy of respondent judge's prior ownership of the motor vehicle.

x x x x

The Certification (Exhibit "E") does not support the allegation that the car is a wanted/carnapped vehicle. The apprehending officer merely indicated that the car, at the time of its seizure on 13 February 1997, had a cut and weld chassis number. There was no finding that any law was violated x x x. Hence, the fact of impounding does not establish conclusively that the car was a wanted or carnapped vehicle.

Based on the evaluation of the evidence presented, the Investigating Justice recommended that the charge for serious misconduct be dismissed. As to the charge of dishonesty, the Investigating Justice opined that since the charge was dependent on the allegation that respondent Judge sold a carnapped vehicle, the same should likewise be dismissed.

In conclusion, the Investigating Justice recommended that while respondent Judge be exonerated from the charges, he should be admonished to be more careful in his transactions, exerting at all times due care and diligence in order to promote public confidence in the integrity of the judiciary.

What constitutes serious misconduct has been thoroughly discussed in *Amosco v. Magro*^[1] -

Misconduct in office has been authoritatively defined by Justice Tuazon in *Lacson v. Lopez* in these words: "Misconduct in office has a definite and well-understood legal meaning. By uniform legal definition, it is a misconduct such as affects his performance of his duties as an officer and not such only as affects his character as a private individual. In such cases, it has been said at all times, it is necessary to separate the character of the man from the character of the officer x x x x It is settled that misconduct, misfeasance, or malfeasance warranting removal from office of an officer must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office x x x x More specifically, in *Buenaventura v. Benedicto*, an administrative proceeding against a judge of the court of first instance, the present