

## EN BANC

**[ A.M. No. RTJ-90-372-B, December 23, 1996 ]**

**COURT EMPLOYEES OF THE REGIONAL TRIAL COURT, BRANCH 27 GINGOOG CITY, COMPLAINANTS, VS. JUDGE VIVENCIO A. GALON, REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY, RESPONDENTS.**

**[A.M. NO. P-93-992. DECEMBER 23, 1996]**

**JUDGE VIVENCIO A. GALON, COMPLAINANT, VS. FORTUNATO RAIL, RESPONDENT.**

### D E C I S I O N

#### **NARVASA, C.J.:**

Judge Vivencio A. Galon was charged with oppression, dishonesty, misconduct, incompetence, and ignorance of the law in a letter-complaint dated December 21, 1989, addressed to then Chief Justice Marcelo B. Fernan by seven (7) employees of Branch 27 of the Regional Trial Court in Gingoog City, namely: Rosita Quicho, Evangeline Alpuerto and Fortunato Rail -- stenographic reporters; Azucena C. Pallugna -- court interpreter; Jesusa Sumaylo -- staff assistant II; Romeo Gaputan -- staff assistant I; and Godofredo Ranis -- court aide. The case was docketed as A.M. RTJ-90-372-B.

At that time, Judge Galon was on *temporary detail* in Branch 27, his permanent station being in Medina, Misamis Oriental, Branch 27. In the comment required of him by this Court, Judge Galon denied the charges, stating that they were maliciously "maneuvered" by one of the complainants, Pallugna, and her husband, a Judge; and that his unpopularity among complainants stemmed from their resentment at his attempts to control their rampant tardiness and absenteeism.

The Court required the complainants to reply to the judge's comment. Gaputan, Quicho, and Sumaylo, instead of filing a reply, submitted separate manifestations to the effect that they were abandoning their complaint it having become moot and academic (evidently because Judge Galon had since been returned to his permanent assignment as presiding Judge of Branch 26 in Medina, Misamis Oriental). Gaputan and Alpuerto did not submit a reply or other pleading. Only Pallugna and Rail filed individual replies.

The Court thereafter referred the case at bar to Justice Alfredo L. Benipayo of the Court of Appeals for investigation, report and recommendation, and subsequently authorized the Executive Judge of Gingoog City to receive the evidence of the parties for eventual submission to Justice Benipayo.

In the course of the investigation, Judge Galon and five (5) of the complainants --

Quicho, Alpuerto, Sumaylo, Gaputan and Ranis -- filed a motion dated September 7, 1992 praying for dismissal of the complaint and the Judge's counter-complaint (later filed), stating that "the continuation of the case would entail waste of their precious time." A similar motion to dismiss the complaint and counter-complaint was on the same day also filed by Judge Galon and Pallugna.

On November 23, 1993, Judge Galon filed a complaint against Fortunato Rail, who was the only complainant left in the case, charging him with adultery, immorality and twelve (12) counts of perjury. This complaint was docketed as A.M. P-93-992 and, after comment thereon was filed by Rail on March 15, 1994, was consolidated with A.M. RTJ-90-372-B. The cases were then referred for reception of evidence to another judge, the Executive Judge of Cagayan de Oro City (Hon. Noli Catli).

Presentation of evidence was regrettably delayed for some time, and it was not until September 21, 1995 that the hearing officer's report and the records (consisting of thirteen [13] rollos and thirty-four [34] sets of transcripts of stenographic notes) were transmitted to Justice Benipayo. On March 1, 1996, Justice Benipayo submitted to this Court his sealed report in the consolidated cases of A.M. P-93-992 and A.M. RTJ-90-372-B, together with the records, which report was NOTED in the Resolution of April 30, 1996.

A few months later, the Court, by Resolution dated August 20, 1996, approved Judge Galon's application for retirement on the ground of permanent total disability, duly certified by the Court's physicians, but withheld the sum of P10,000.00 "from his retirement benefits, pending the outcome of the administrative case filed against him \*\*."

Now, of the several charges against Judge Galon comprehended in A.M. RTJ-90-372-B, only one, in the view of both the Investigating Executive Judge and Justice Benipayo, was adequately established by the evidence. For all their voluminousness, the proofs failed to substantiate the accusation relative to the Judge's berating a carinderia owner; or respecting his supposed solicitation of the endorsement of municipal officials to be permanently appointed in Gingoog City or Medina, Misamis Oriental; or regarding the cancellation of the property bond in Criminal Case No. 357-M-78, he having simply exercised the discretion accorded him by Sections 8, 16 and 17, Rule 117 of the Rules of Court; or concerning the purchase of certain books which, in truth, was pronounced regular and proper by the Gingoog City auditor; or regarding his having allegedly compelled court employees Ranis and Sumaylo to do domestic chores; or relative to the dismissal of a particular criminal action, the public prosecutor concerned having in fact acknowledged the weakness of the government's case against the accused; or respecting the admission of clearer copies of documents earlier formally offered in evidence; or respecting his having adopted the arguments of one party in a decision in a criminal case or in having excluded the mayor of Medina in another criminal case at the instance of the public prosecutor.

A review of the record convinces the Court of the correctness of the Investigating Justice's assessment of the proofs as establishing the charge of reprehensible use by respondent of his chambers, as well as impropriety in language.

\*\*\*. Respondent judge's behavior, particularly his use of the court chambers as his lodgings, displaying his personal belongings including