



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**HONORABLE LEO L. INTIA,**  
Presiding Judge, Branch 27,  
Regional Trial Court, Naga City,  
Camarines Sur,

Complainant,

– versus –

**HONORABLE ERWIN  
VIRGILIO P. FERRER,**  
Executive Judge and Presiding  
Judge, Branch 20, Regional Trial  
Court, Naga City, Camarines Sur,  
Respondent.

**A.M. No. RTJ-24-064**  
[Formerly  
JIB FPI No. 21-021-RTJ]

Members:

LEONEN,\* *S.A.J., Chairperson,*  
LAZARO-JAVIER,\*\*  
LOPEZ, M.  
LOPEZ, J., *and*  
KHO, JR., *JJ.*

Promulgated:

**MAY 13 2024**

X-----X

**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

In his Letter–Complaint<sup>1</sup> dated November 6, 2020, Judge Leo L. Intia (Judge Intia), Presiding Judge of Branch 27, Regional Trial Court, Naga City, charged respondent Executive Judge Erwin Virgilio P. Ferrer (Executive Judge Ferrer [ret.]) of Regional Trial Court, Naga City with: a) coaxing Atty.

\* On official business.

\*\* Acting Chairperson.

<sup>1</sup> *Rollo*, pp. 4–6.

Noe B. Botor (Atty. Botor), a practicing lawyer, to go against him; b) maintaining and engaging an insurance business as an insurance agent or broker; and c) violating Supreme Court circulars relative to cases involving persons deprived of liberty (PDLs).<sup>2</sup>

### Antecedents

In his Order<sup>3</sup> dated October 19, 2020, Judge Intia inhibited himself from handling Criminal Case Nos. 2019-0822 and 2019-0823 titled "*People v. Inda*" and his footnotes bore the following narrative, *viz.*:

When a judge maligns and speaks bad of another judge specially about cases pending in the sala of the latter, and instigates a lawyer or any person to go against a fellow judge, and the aspersion of everything except goodness and righteousness of the judge maligned reaches the litigants especially those who lost their cases decided by the judge maligned, the latter is placed in higher risk of all possible harm that can be thought of. I had been hearing for the past years that this judge has been maligning me but I kept my peace and instead prayed that he will realize the danger of what he is doing against me especially that he is doing these out of anger, malice, and envy, without any constructive purpose but to destroy me. **I know because several persons to whom he confided told me, and even his staff speaks. But as he continues to put me down, his enemies multiply due to his personality/character manifested in his actions, some of which are as follows: 1)He shouted and lambasted a policeman witness in open court and ordered him to sit on the Judge chair while having trial, the Lady Prosecutor was already in tears when the fury of the judge subsided; 2) In a loud and offensive voice, he humiliated and insulted a Barangay Captain during a hearing. In these two and similar incidents, the victims and even the prosecutors were persuaded not to complain against this Judge. But just months ago, a Lady staff of the Judge complained to the Chief Justice, Supreme Court against this Judge who lambasted, shouted, insulted and humiliated her during a staff meeting. The Lady reported these criminal and damaging actions of the Judge to the police and her affidavit was subscribed before the Prosecution Office.** All these incidents happened, are verifiable and are common knowledge in the legal circle, but the third incident came to my knowledge because I was informed by my staff and the affidavit and letter circulated through the different chat groups of the Court employees. He is so powerful that in a stroke of his pen, his Lady Staff was assigned to another Branch of RTC, Naga City. Just last week, I was informed by my staff that another letter circulated in relation to the Complaint of the Lady staff of this Judge, and she told me that since it is known in the legal circle that I and this Judge are not in good terms, I am one of the suspects as the author of the circulation. I tried to reach out and talk to this Judge for several times but I was refused. This is so disturbing on my part, I must talk, my Faithful Breast can no longer tolerate these matters.

A week ago, a fellow Lady Judge in this jurisdiction was ambushed,

<sup>2</sup> *Id.* at 911-912.

<sup>3</sup> *Id.* at 8-12. Penned by Judge Leo L. Intia of Branch 27, Regional Trial Court, Naga City.

thanks GOD she survived but her aide was seriously wounded. This Judge (referred to in the first paragraph of this footnote) due to his temper, sudden outburst of emotions, and constant use of offensive language, has humiliated, embarrassed and angered many persons. God forbid, if his victims complain against him and worst, if something harmful happens to him, to quote my staff – ‘since it is known in the legal circle that I and this Judge are not in good terms, I am one of the suspects.’ I and this Judge were friends and I cherish our friendship despite all these things he did and is doing to me. In fact, my in-laws and his parents are close friends in their lifetime. **Friendship is the reason why for so many years that this Judge has been renting a commercial space in the commercial building of my in-laws, no increase in monthly rental was collected from him, unlike other lessees. At one time, I told him that we will get the insurance of our cars from him, and yes we were given big discount. It was only last year when this Judge transferred the venue of his business to his house. (Proofs are the lease contract signed by this Judge and receipts of payment of his monthly rentals of his commercial space.) I have known [of] these activities of this Judge for a long time but it is for his good and his family to just remain silent.** (Canon of Judicial Ethics, Rule 5.02 - A judge shall refrain from financial and business dealings that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities, or increase involvements with lawyers or persons likely to come before the court. A judge should so manage investments and other financial interests as to minimize the number of cases giving grounds for disqualification; Art. 14 - The following cannot engage in the commercial profession either in person or by proxy, nor can they hold any direct administrative or economic position in commercial and industrial associations within the limits of his districts, provinces, or towns in which they discharge their duties: xxx judges and officials of the department of public prosecution in active service xxx) But I must break my silence now. In the world of business there are competitors and dissatisfied clients. To quote my staff again – “since it is known in the legal circle that I and this Judge are not in good terms, I am one of the suspects.”<sup>4</sup> (Emphasis supplied)

In his letter-complaint, Judge Intia identified the main subject of his footnotes as Executive Judge Ferrer (ret.); the “Lady staff” who complained to the Office of the Chief Justice as Rebecca Simando Valencia (Valencia), the court interpreter originally assigned to the sala of Executive Judge Ferrer (ret.) but was later on detailed at Branch 61, Regional Trial Court, Naga City; the barangay captain who was allegedly humiliated, as Alfonso R. Rodriguez (Barangay Captain Rodriguez), of San Felipe, Naga City; the police officer who was supposedly lambasted by Executive Judge Ferrer (ret.) and made to sit on the judge’s chair, as Police Officer I Joel Cenen Jacob (PO1 Jacob); and the prosecutor who was in tears as Prosecutor Shiela Monserrate-Manrique (Prosecutor Manrique) of the Provincial Prosecutor’s Office of Camarines Sur.<sup>5</sup>

Judge Intia submitted as alleged evidence of Judge Ferrer (ret.)’s insurance business a) a lease contract between Executive Judge Ferrer (ret.)

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<sup>4</sup> *Id.* at 9–11.

<sup>5</sup> *Id.* at 41.

and the owner of Angeles Building on Mercedes Road, Daet, Camarines Norte; and b) receipts of the monthly rent paid by Executive Judge Ferrer (ret.).<sup>6</sup>

As for the cases involving a number of PDL's, Judge Intia submitted an Updated List of PDL's dated November 6, 2020 showing that at least 55 cases were pending in the sala of Executive Judge Ferrer (ret.). The list was provided by Police Colonel Romeo L. Pillonar (P/COL. Pillonar), Officer-in-Charge – Provincial Jail Warden. Fifteen of the PDL's had been in jail for periods ranging from more than three years to more than eight years.<sup>7</sup> According to Judge Intia, the delay in the resolution of these cases was a blatant disregard of existing Supreme Court circulars, more so since the said cases were not included in the monthly report and semestral docket inventory of cases of Executive Judge Ferrer (ret.).<sup>8</sup>

In his Verified Comment<sup>9</sup> dated July 28, 2021, Executive Judge Ferrer (ret.) countered that the letter-complaint sprang from an incident relative to Criminal Case Nos. 2019-0822 and 2019-0823, then pending before the sala of Judge Intia. In those cases, Atty. Botor filed a motion for reconsideration and voluntary inhibition of Judge Intia. On October 27, 2020, around 1:30 p.m., the raffle committee composed of Judges Pablo C. Formaran III, Lawrence Puto, and Cresencio L. Cortez, perused the case records and noted serious allegations of corruption in the motion for reconsideration and voluntary inhibition.<sup>10</sup> Judge Intia must have been aware that the allegations of Atty. Botor were corroborated by Assistant Provincial Prosecutor Eulogio I. Prima through an affidavit.<sup>11</sup>

In his capacity as Executive Judge, he (Executive Judge Ferrer [ret.]) signed the order deferring the raffling of Criminal Case Nos. 2019-0822 and 2019-0823 in order to contemplate on whether the Office of the Chief Justice should be furnished with a copy of the motion for reconsideration and voluntary inhibition. Eventually, he issued Office Memorandum No. EVPF-2020-007 directing that a copy of Atty. Botor's motion be furnished to the Office of the Chief Justice. On November 5, 2020, the raffle committee received Judge Intia's Letter dated November 4, 2020, transmitting his Order dated October 19, 2020, wherein he inhibited himself from the case.<sup>12</sup> On November 6, 2020, Judge Intia prepared the subject letter-complaint.<sup>13</sup>

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<sup>6</sup> *Id.* at 4–5.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 5–6.

<sup>9</sup> *Id.* at 687–699.

<sup>10</sup> *Id.* at 689.

<sup>11</sup> *Id.* at 689–690.

<sup>12</sup> *Id.* at 690.

<sup>13</sup> *Id.*



Since he (Executive Judge Ferrer [ret.]) was unable to heed Judge Intia's request for intervention in the latter's issue with Atty. Botor, Judge Intia got angry with him and amended his (Judge Intia) order of inhibition to include the footnotes. Judge Intia also filed a libel case against him before the prosecutor's office.<sup>14</sup> The complaint was dismissed.<sup>15</sup> On April 21, 2021, Judge Intia's motion for reconsideration and inhibition was denied.<sup>16</sup>

On the first charge, he never instigated Atty. Botor to go against Judge Intia. The issue between Judge Intia and Atty. Botor started in 2006 and he was in no way involved in it. As a member of the raffle committee, he was merely a recipient of case records. He did not intervene in any case pending before another judge. Atty. Botor even executed an affidavit, stating that in his 36 years of practice, he had never allowed himself to be persuaded to do something that he knew was wrong and he was never instigated to go against Judge Intia.<sup>17</sup>

On the charge that he delayed the disposal of cases, he had always been compliant with Supreme Court issuances on the matter. His branch clerk of court, Atty. Glenda Gumba-Almelor (Atty. Almelor) had been conscientious in helping him prepare the semestral inventory of cases from July 1, 2011 to December 2020.<sup>18</sup>

On the charges of his alleged unbecoming demeanor toward Valencia, Barangay Captain Rodriguez, and PO1 Jacob, the same are similarly baseless:

- 1) Valencia, a Court Interpreter, was transferred after Lilia Platon, branch clerk of court of Municipal Trial Court for Minalabac filed an administrative case against her. As a result, Valencia was sternly warned and fined PHP 5,000.00. Valencia filed a complaint against him under OCA IPI No. 21-5116-RTJ, because he called her attention for being unruly and for her unbecoming behavior during a staff meeting on July 10, 2020. He had already filed his comment on the complaint.<sup>19</sup>
- 2) He indeed called out Barangay Captain Rodriguez because the latter showed disrespect to the court. Barangay Captain Rodriguez was seated in the courtroom with his hands on the back rest, as if he was in his own living room. He requested Barangay Captain Rodriguez to read instructions. There was no intention to humiliate but to remind that proper demeanor should be observed in his court.<sup>20</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 691.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 694.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 696.

- 3) PO1 Jacob was inside the court in full uniform, with his gun tucked on his waist. As PO1 Jacob was waiting for his turn to testify, he (Executive Judge Ferrer [ret.]) saw PO1 Jacob sitting inside the courtroom with his hands on the backrest while boisterously conversing and laughing with two other police officers while the hearing was ongoing. It was because of such behavior that he called PO1 Jacob's attention.<sup>21</sup>

As for the charge pertaining to his so-called prohibited business, he admitted that he has an insurance business registered in his name in Daet, Camarines Norte. The family business originally belonged to his father Santiago M. Ferrer, Sr. He never solicited clients and he never managed the same. In fact, it has been Shirley Lo Aguilar (Aguilar) who managed the business for many years. He has consistently declared his business interest in his Statement of Assets, Liabilities, and Net Worth (SALN).<sup>22</sup>

In his Reply<sup>23</sup> dated September 22, 2021, Judge Intia essentially reiterated the allegations in his letter-complaint. He further emphasized that the Monthly Remittance Return of Creditable Income Taxes Withheld Bureau of Internal Revenue (BIR) Form No. 1601-E for the years 2012 to 2018 were submitted and personally signed by Executive Judge Ferrer (ret.) himself as an "Insurance Agent." In a text message sent to his wife Dr. Arlene Angeles-Intia, Aguilar confirmed that Executive Judge Ferrer (ret.) managed and directed the transactions of his insurance business. He also denied the charges of Executive Judge Ferrer (ret.) against him and that he never sought the latter's intervention in the matter involving Atty. Botor.<sup>24</sup>

In his Rejoinder<sup>25</sup> dated March 31, 2022, Executive Judge Ferrer (ret.) reiterated that his business interest has never been a secret as he has even declared the same in his SALN. Aguilar has admitted that she was the one managing the company. Judge Intia illegally retrieved copies of official receipts, withholding tax remittance certificates, and alleged summary of lease rentals. These were released without his knowledge and consent, thus, constituting a violation of the 2012 Data Privacy Act.

### **Proceedings before the Judicial Integrity Board (JIB)**

By Letter dated January 10, 2023, the Office of the Executive Director of the Judicial Integrity Board directed Executive Judge Ferrer (ret.) to show

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<sup>21</sup> *Id.* at 696–697.

<sup>22</sup> *Id.* at 698–699.

<sup>23</sup> *Id.* at 820–827.

<sup>24</sup> *Id.* at 824.

<sup>25</sup> *Id.* at 882–892.



cause why he should not be disciplined as a member of the Philippine Bar. By then Executive Judge Ferrer (ret.) had already retired.<sup>26</sup>

In his Comment dated January 17, 2023, Executive Judge Ferrer (ret.) denied violating Rule 1.01(Canon 1) and Rule 10.01 (Canon 10) of the Code of Professional Responsibility. He reiterated the allegations in his verified comment and rejoinder.<sup>27</sup>

### **Report and Recommendation of the Acting Executive Director, Judicial Integrity Board (JIB)**

By his Report and Recommendation<sup>28</sup> dated February 16, 2023, Deputy Clerk of Court at Large, Office of the Court Administrator and Acting Executive Director of the JIB James D.V. Navarrete (DCC Navarrete) recommended the dismissal of the complaint, thus:

In view of the foregoing, it is respectfully recommended for the consideration of the Honorable Board that the following recommendations be made to the Supreme Court the instant administrative complaint against Executive/Presiding Judge Erwin Virgilio P. Ferrer, Branch 20, Regional Trial Court, Naga City, Camarines Sur, be DISMISSED for lack of merit.<sup>29</sup>

DCC Navarrete observed that the complaint was devoid of merit. Instead of directly settling his issues with then Executive Judge Ferrer (ret.), Judge Intia resorted to filing the complaint which was loosely based on incidents that he had no personal knowledge of. Judge Intia failed to adduce credible evidence that Executive Judge Ferrer (ret.) urged Atty. Botor to go against him.<sup>30</sup>

DCC Navarrete noted that now retired Executive Judge Ferrer did not violate Rules 5.02 and 5.03 of the Code of Judicial Ethics. His insurance business was not shown to have distracted him from performing his judicial duties. Notably, the business was based in Daet, Camarines Norte and not in Naga City, Camarines Sur, where Executive Judge Ferrer (ret.) was stationed. The family business, styled as EVPF Insurance Agency, is a sub-agent of BPI/MS Insurance Corporation as of November 25, 2022. The company was first accredited as a bonding company on October 25, 2005. The areas of its accreditation never included Region V, which was the judicial region covered by the court of Executive Judge Ferrer (ret.). There was no evidence that he solicited clients. The business was managed by Aguilar. There was also no

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<sup>26</sup> *Id.* at 916.

<sup>27</sup> *Id.* at 916-917.

<sup>28</sup> *Id.* at 911-921.

<sup>29</sup> *Id.* at 921.

<sup>30</sup> *Id.* at 917-918.

showing that the business of Executive Judge Ferrer (ret.) was ever involved in any of the branches of the RTC for Naga City.<sup>31</sup>

On the complaints filed by Valencia against Executive Judge Ferrer (ret.), the same were pending before the Court under OCA IPI No. 21-5116-RTJ titled “*Rebecca Valencia, Court Interpreter III, Branch 20, RTC, Naga City, v. Judge Erwin Virgilio P. Ferrer.*”<sup>32</sup>

As for his alleged unbecoming conduct towards Barangay Captain Rodriguez and PO1 Jacob, Executive Judge Ferrer (ret.) has satisfactorily explained his side. Besides, Judge Intia was not even present when the incidents took place. Judge Intia even admitted that the stories were just relayed to him.<sup>33</sup>

Lastly, Atty. Almelor, the branch clerk of court of Executive Judge Ferrer (ret.) adequately explained the status of the cases mentioned by Judge Intia. There were resettings made at the instance of the prosecution, defense, or the court. Some of the cases mentioned had already been decided. Further, Atty. Almelor’s statements were confirmed by the judicial audit, conducted by the Office of the Court Administrator (OCA) from June 22 to 30, 2022 preparatory to Executive Judge Ferrer (ret.)’s compulsory retirement on July 1, 2022. Per its Report dated August 26, 2022, the audit team found that of the 392 criminal cases pending before Executive Judge Ferrer (ret.)’s sala, only two were submitted for decision. As of June 6, 2022, there were 25 cases for resolution prior to the compulsory retirement of Executive Judge Ferrer (ret.). There were also five civil cases that showed no further action after orders and summonses were issued. The report, nonetheless was inconclusive as to whether there was delay on the part of Executive Judge Ferrer (ret.).<sup>34</sup>

In conclusion, DCC Navarrete recommended the dismissal of the complaint.

### **Report and Recommendation of the Judicial Integrity Board (JIB)**

By its Report<sup>35</sup> dated February 21, 2024, the JIB recommended that Executive Judge Ferrer (ret.) be found guilty of simple misconduct for violation of the New Code of Judicial Conduct for the Philippine Judiciary, which superseded the Code of Judicial Ethics, *viz.*:

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<sup>31</sup> *Id.* at 198–199.

<sup>32</sup> *Id.* at 919–920.

<sup>33</sup> *Id.* at 920.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 922–935.



WHEREFORE, it is respectfully RECOMMENDED to the Honorable Supreme Court that:

1. the instant administrative case against retired Judge Erwin Virgilio P. Ferrer, Branch 20, Regional Trial Court, Naga City, Camarines Sur, be RE-DOCKETED as a regular administrative matter;

2. respondent be found GUILTY of violation of Supreme Court rules, directives and circulars that establish an internal policy, rule of procedure or protocol, and simple misconduct constituting violations of The New Code of Judicial Conduct for the Philippine Judiciary, and accordingly FINED in the amount of Eighteen Thousand Pesos (P18,000.00), payable within three (3) months from the time the decision or resolution of the Supreme Court is promulgated; and,

3. the other charges against respondent be DISMISSED for lack of merit.<sup>36</sup>

The JIB agreed with DCC Navarrete that there was no need to rule on the administrative liability of Executive Judge Ferrer (ret.) with regard to the three incidents of intemperate outbursts in open court as the same was already dismissed by the Court in OCA IPI No. 21-5116-RTJ, for lack of merit.<sup>37</sup>

As for the insurance business of Executive Judge Ferrer (ret.), the JIB recommended that he be held administratively liable. The Court's Administrative Circular No. 5 dated October 4, 1988 enjoins employees of the Judiciary from being commissioned as insurance agents or engaging in related activities. Though Executive Judge Ferrer (ret.) was not shown to have solicited business or transacted with clients, he was still liable for directly engaging in a private business of insurance as the prohibition against conducting an insurance business is absolute. The fact that the business was actually managed by Aguilar is inconsequential as his mere ownership thereof warranted administrative sanction. He should have divested himself of his financial interest in that business to avoid speculation that he benefited from his position as both presiding judge and executive judge.

At any rate, he did not violate the Supreme Court circulars on the disposition of cases involving PDL's. As confirmed by Atty. Almelor the cases assigned to Executive Judge Ferrer (ret.) were duly reported to the OCA. The JIB noted that some of the cases were still being heard and there had been resettings at the instance of the parties. The judicial audit of OCA preparatory to the mandatory retirement of Executive Judge Ferrer is far more accurate than the list provided by P/COL. Pillonar.<sup>38</sup>

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<sup>36</sup> *Id.* at 933-934.

<sup>37</sup> *Id.* at 928.

<sup>38</sup> *Id.* at 931-932.

Lastly, there was no basis for Judge Intia's claim that Executive Judge Ferrer (ret.) egged Atty. Botor to make allegations of corruption against Judge Intia. In his affidavit, Atty. Botor himself disclaimed any involvement by Executive Judge Ferrer (ret.). The charges against the latter were more likely caused by Judge Intia's animosity towards him after Executive Judge Ferrer (ret.) filed with the Office of the Chief Justice corruption cases against Judge Intia.<sup>39</sup>

Verily, for owning an insurance business, the JIB recommended that Executive Judge Ferrer (ret.) be held liable for simple misconduct and fined PHP 18,000.00, considering this was his first offense.

### **Our Ruling**

The Court adopts in the main the factual findings and legal conclusions, of the JIB, but imposes a different penalty.

*The charge of unbecoming conduct against Executive Judge Ferrer (ret.) for his supposed outbursts against court personnel Valencia during a staff meeting has already been resolved with finality in OCA IPI No. 21-5116-RTJ*

To reiterate, Judge Intia accused Executive Judge Ferrer (ret.) of unbecoming conduct for the latter's alleged outbursts in open court against court personnel Valencia during a staff meeting.

As duly reported by DCC Navarrete and the JIB, Valencia's complaint against Executive Judge Ferrer (ret.) was the subject matter of OCA IPI No. 21-5116-RTJ titled "*Valencia v. Ferrer.*" By Resolution dated January 30, 2023, the Court dismissed Valencia's complaint but gave a stern warning to both parties, viz.:

The Report dated October 5, 2022 of the Judicial Integrity Board (JIB) is NOTED. The Court resolves to ADOPT and APPROVE the findings of fact, conclusions of law, and recommendations of the JIB in the attached Report dated October 5, 2022.

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<sup>39</sup> *Id.* at 932.

The Complaint against Hon. Erwin Virgilio P. Ferrer, Presiding Judge, Branch 20, Regional Trial Court, Naga City, Camarines Sur, as well as the countercharge against Ms. Rebecca S. Valencia, Court Interpreter III of the same station, are DISMISSED for utter lack of merit. Both Hon. Erwin Virgilio P. Ferrer and Ms. Rebecca S. Valencia are REMINDED to settle their differences between themselves and be more circumspect in dealing with each other in the workplace. They too are STERNLY WARNED that a repetition of the same or similar incident shall be dealt with more severely.

SO ORDERED.

Thus, the Court cannot pass upon here for the second time Judge Intia's same charge of unbecoming conduct by Executive Judge Ferrer (ret.).

***The charge of maltreatment  
against Barangay Captain  
Rodriguez and PO1 Jacob is  
equally unsubstantiated***

Judge Intia also charged Executive Judge Ferrer (ret.) with maltreatment of PO1 Jacob and Barangay Captain Rodriguez as he had allegedly humiliated them in open court. But Judge Intia himself admitted that this supposed information was only relayed to him and he had no personal knowledge thereof. Notably, the two alleged victims did not execute any supporting affidavits nor initiate any administrative complaint against Executive Judge Ferrer (ret.). In fine, Judge Intia relied on a mere say so or hearsay evidence, which is inadmissible under Section 37, Rule 128 of the 2019 Amended Rules on Evidence:

Section 37. Hearsay. – Hearsay is a statement other than one made by the declarant while testifying at a trial or hearing, offered to prove the truth of the facts asserted therein. A statement is (1) an oral or written assertion or (2) a non-verbal conduct of a person, if it is intended by him or her as an assertion. Hearsay evidence is inadmissible except as otherwise provided in these Rules.

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On this score, DCC Navarrete keenly observed:

As to the police officer and Barangay official, respondent Judge Ferrer sufficiently explained his side: he had to call the attention of the Law Enforcer and the Barangay Captain because they were acting rudely while the court was in session. To reiterate, complainant Judge Intia was not even present when these incidents took place. He admitted the stories were just passed onto him. At any rate, there is no doubt that judges have the duty to maintain the dignity of the courts and pursuant thereto they have the

authority to call the attention of anyone who displays disrespectful behavior in court.<sup>40</sup>

....

Consequently, Judge Intia's charge of unbecoming conduct against Executive Judge Ferrer (ret.) must be dismissed for lack of merit.

***There is no evidence that Executive Judge Ferrer (ret.) influenced Atty. Botor to go against Judge Intia***

In administrative cases, the quantum of evidence required is substantial evidence. *NBI v. Najera*<sup>41</sup> teaches:

The quantum of proof in administrative proceedings necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. The burden to establish the charges rests upon the complainant. The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon which his accusations are based. The respondent is not even obliged to prove his exception or defense. Given these precepts, we find that there is no substantial evidence to hold Conrado liable for grave misconduct.

Here, Judge Intia merely alleged that Executive Judge Ferrer (ret.) egged Atty. Botor to accuse him (Judge Intia) of corruption. Mere allegations are not evidence. More important, Atty. Botor executed an affidavit categorically denying that he ever accused Judge Intia of corruption, thus:

Finally, complainant's charge that respondent maligned him and caused Atty. Botor to question his neutrality in a case and move for his inhibition was categorically denied by Atty. Botor in his Affidavit dated July 27, 2021. The contents of the motion only referred to a 2006 incident when Atty. Botor called out complainant for allegedly interceding in a case with the Provincial Prosecution Office and annexed the Affidavit of then Assistant Provincial Prosecutor Eulogio I. Prima (ret.), dated July 10, 2006, attesting to the allegation.

The more likely cause of complainant's animosity is respondent's October 29, 2020 Memorandum as EJ, addressed to all judges, personnel and court users of his court station, urging the Raffle Committee to exercise its discretion in furnishing the Office of the Chief Justice copies of motions for voluntary inhibition containing serious allegations of corruption. It was issued in his capacity as EJ and in compliance with the directive of then

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<sup>40</sup> *Id.* at 920.

<sup>41</sup> 875 Phil. 748 (2020) [Per J. Lopez, First Division].



Chief Justice Diosdado M. Peralta. Complainant admitted that the memorandum caused him distress. He filed a complaint for Libel against respondent, but it was dismissed in a Resolution of the City Prosecution Office dated February 18, 2021. The memorandum, however, is not evidence that respondent maligned complainant or that he instigated the filing on October 12, 2020, of Atty. Botor's motion for complainant's voluntary inhibition. Thus, there is no merit in the said charge.<sup>42</sup>

So must it be.

***There was no delay in the disposition of cases involving PDLs***

Article VIII, Section 15 (1) of the 1987 Constitution requires lower court judges to decide a case within the reglementary period of 90 days. Section 5 of Canon 6 of the New Code of Judicial Conduct likewise directs judges to perform all judicial duties, including the delivery of resolution and decisions efficiently, fairly, and with reasonable promptness. Rules prescribing the time within which certain acts must be done are indispensable to prevent needless delays in the orderly and speedy disposition of cases. Thus, the 90-day period is mandatory. The speedy disposition of cases in our courts is a primary aim of the Judiciary, so that the ends of justice may not be compromised and the Judiciary will be true to its commitment to provide litigants their constitutional right to speedy trial and speedy disposition of their case.<sup>43</sup> *Uy v. Medina*<sup>44</sup> underscores the consequences if the disposition of cases is delayed:

The excuse proffered by the respondent judge for the delay is flimsy. A judge should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.

The Revised Rules on Summary Procedure was precisely enacted to achieve an expeditious and inexpensive determination of cases, and failure to observe the 30-day period within which to render a judgment subjects the defaulting judge to administrative sanction.<sup>45</sup>

Therefore, if a judge fails to decide a case within the prescribed period, administrative liability attaches. Yet here, Judge Intia merely relied on a list of pending cases provided by a jail warden. Such list alone will not suffice. It should be concretely shown that Executive Judge Ferrer (ret.) did not dispose of the cases within the prescribed period. Merely indicating that a certain case

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<sup>42</sup> *Rollo*, p. 932.

<sup>43</sup> *OCA v. Guiling*, 853 Phil. 767, 779 (2019) [Per J. Carandang, *En Banc*].

<sup>44</sup> 396 Phil. 565 (2000) [Per J. Puno, First Division].

<sup>45</sup> *Id.* at 572.



has been pending for so many years does not automatically amount to undue delay. On this score, we agree with the following observations of the JIB, *viz.*:

According to complainant, respondent also violated Court circulars on the prescribed period within which to resolve and decide cases involving PDLs, e.g., to prioritize motions and interlocutory incidents involving PDLs and expedite termination of proceedings, aside from the ninety (90)-day period from submission for decision mandated by the Constitution to decide cases. To bolster his charge, he submitted a list of PDLs with pending cases in respondent's court, issued by the Camarines Sur Provincial Jail and Penal Farm on November 6, 2020, which showed fifty-five (55) pending cases, fifteen (15) out of which have been pending for three (3) to seven (7) years. He surmised that respondent omitted reporting these cases in his court's Monthly Reports and Semestral Docket Inventory.

On the other hand, Atty. Glenda Gumba-Almelor (Atty. Almelor), Branch Clerk of Court, attested in her July 28, 2021 Affidavit that the cases of PDLs in the warden's list were duly included in the Monthly Reports and Semestral Docket Inventory that she submitted to the Court. Not only did she faithfully comply with reportorial requirements, but the status of cases shows that the unresolved cases involving PDLs were still being heard and there have been resettings made by the parties.

The Court may take judicial notice that preparatory to respondent's compulsory retirement on July 1, 2022, the OCA had conducted a judicial audit on June 22 to 30, 2022, which validated Atty. Almelor's attestations and did not report undue delay in resolving cases of PDLs. The OCA's judicial audit is a better gauge than a jail warden's list of cases involving PDLs because an audit comprehensively discloses a court's action or inaction on cases and the reasons for such action or inaction. Thus, there is insufficient basis to hold respondent liable for violation of Court circulars on the period within which to decide cases involving PDLs.<sup>46</sup>

***Executive Judge Ferrer (ret.) is  
administratively liable for not  
divesting his interest in his  
insurance business***

Administrative Circular No. 5 (Prohibition to Work as Insurance Agent) dated October 4, 1988 enjoins Judicial employees from being commissioned as insurance agents or engaging in similar activities:

ACCORDINGLY, all officials and employees of the Judiciary are hereby enjoined from being commissioned as insurance agents or from engaging in an such related activities, and to immediately desist therefrom if presently engaged thereat.

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<sup>46</sup> *Rollo*, pp. 931-932.

In *Re: Anonymous Letter-Complaint against Lopez and Montalvo*<sup>47</sup> elucidated:

Administrative Circular No. 5 (Re: Prohibition for All Officials and Employees of the Judiciary to Work as Insurance Agents), dated October 4, 1988, has prohibited all officials and employees of the Judiciary from engaging directly in any private business, vocation or profession, even outside their office hours. The prohibition has been at ensuring that full-time officers and employees of the courts render full-time service, for only thereby could any undue delays in the administration of justice and in the disposition of court cases be avoided. The nature of the work of court employees and officials demanded their highest degree of efficiency and responsibility, but they would not ably meet the demand except by devoting their undivided time to the government service. This explains why court employees have been enjoined to strictly observe official time and to devote every second or moment of such time to serving the public.

Although many “moonlighting” activities were themselves legal acts that would be permitted or tolerated had the actors not been employed in the public sector, moonlighting, albeit not usually treated as a serious misconduct, can amount to a malfeasance in office by the very nature of the position held. ...<sup>48</sup>

In *Misajon v. Feranil*,<sup>49</sup> the Court found a judge guilty of unbecoming conduct, a less serious offense, for engaging in insurance business:

Moreover, Judge Misajon’s engagement as Sales Counselor/Pension Planner of the Equitable Pension Plans violates Administrative Circular No. 5 dated October 4, 1988, which prohibits all employees and officials of the Judiciary from being commissioned as insurance agents or from any such related activities and “to immediately desist if presently engaged thereat” because “the entire time of the Judiciary officials and employees must be devoted to government service to ensure efficient and speedy administration of justice.”<sup>50</sup>

Here, Executive Judge Ferrer (ret.) owns financial interest in the insurance business through EVPF Insurance Agency in violation of Administrative Circular No. 5. Section 15, Rule 140 (A.M. No. 21-08-09-SC) of the Rules of Court, *viz.*:

SECTION 15. Less Serious Charges. - Less serious charges include:

.....

<sup>47</sup> 744 Phil. 541 (2014) [Per J. Bersamin, *En Banc*].

<sup>48</sup> *Id.* at 553–554.

<sup>49</sup> 483 Phil. 339 (2004) [Per J. Ynares-Santiago, First Division].

<sup>50</sup> *Id.* at 349.

(e) Violation of Supreme Court rules, directives and circulars that establish an internal policy, rule of procedure, or protocol;

...

Under Section 17, Rule 140 of the Rules of Court, the penalty for a less serious offense is either suspension or a fine:

Section 17. Sanctions. –

....

(2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- (a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or
- (b) A fine of more than P35,000.00 but not exceeding P100,000.00.

....

There are factors to be considered in imposing the appropriate penalty for violation of Administrative Circular No. 5. *Go v. Remotigue*<sup>51</sup> is in point, thus:

The avowed objective of Administrative Circular No. 5 is to ensure that the entire time of the officials and employees of the Judiciary be devoted to their official work to ensure the efficient and speedy administration of justice. Unlike that of the rest of the government workforce, the nature of work of the officials and employees of the courts requires them to serve with maximum efficiency and the highest degree of devotion to duty in order to maintain public confidence in the Judiciary. This is true even if the private business, vocation or profession would be undertaken outside the office hours.

**The Court, in a host of cases, has invariably imposed commensurate sanctions upon court employees for violation of Administrative Circular No. 5 depending on the gravity of the offense committed and, likewise, taking into consideration the personal records of the respondent employees as to prior administrative cases instituted against them. The Court reprimanded a stenographer for appearing as a representative of one of the complainants in a labor case before the National Labor Relations Commission; imposed a fine of P1,000.00 upon a court aide who operated a sari-sari store in the court premises; imposed a fine of P5,000 upon a process server of the Office of the Clerk of Court, Regional Trial Court, Balanga City, Bataan who facilitated**

<sup>51</sup> 577 Phil. 126 (2008) [Per J. Azcuna, First Division].



**the bail bond of an accused who had a pending case in one of the courts in the said city; suspended a sheriff for one (1) month without pay as he “moonlighted” as the administrator/trustee of a market after office hours to augment his meager salary; suspended for six (6) months without pay a court stenographer who engaged in a pyramiding business and solicited investments during office hours; and dismissed from the service with forfeiture of all the benefits due a clerk for working as part-time sales agent of an appliance center and for other offenses, specifically, falsification of her daily time records and infliction of physical injuries upon therein complainant in a public place under scandalous circumstances.<sup>52</sup> (Emphasis supplied)**

In ascertaining the impossible penalty here, we consider the following factors, to wit: 1) Executive Judge Ferrer (ret.) inherited the business from his father; 2) He never used his position to solicit business for his company; 3) The insurance business was situated in Daet, Camarines Norte, well outside the territorial jurisdiction of his court; 4) The relevant lease contracts and public documents, such as BIR forms transparently bore his name and signature as business owner/insurance agent; 5) He consistently declared his business interest in his SALN; and 6) He was not involved in the day-to-day operations of the business.

Based on these circumstances, therefore, it cannot be said that Executive Judge Ferrer (ret.) had any intention of circumventing Administrative Circular No. 5. He never hid that he owns an insurance business, which he inherited from his father. His only fault was that upon his appointment as judge, he did not divest his financial interest therein. Thus, the Court imposes on him the minimum fine of PHP 35,000.00.

By reason of his compulsory retirement on July 1, 2022, however, the fine of PHP 35,000.00 shall be charged to his retirement benefits. Section 22, Rule 140 of the Rules of Court is apropos:


SECTION 22. Payment of Fines. – When the penalty imposed is a fine, the respondent shall pay it within a period not exceeding three (3) months from the time the decision or resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, which is considered as a form of compensation, is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.

The annotation to this provision reads:

NOTES: In *Flores v. Interino* (A.M. My. P-18-3873, January 11, 2021), the Court imposed a fine on respondent because he could no longer serve the penalty of suspension previously meted on him. The Court ordered

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<sup>52</sup> *Id.* at 134–135.



the amount of the fine (i.e., prevailing rate on her last day of work) to be “deducted from her accrued leave credits, if any, or paid directly to the Court if she does not have sufficient leave credits to cover the amount of the fine.”

To avoid confusion with the subsisting prohibition of forfeiting accrued leave credits, the provision also makes clear that the deduction of unpaid fines from accrued leave credits is considered as a form of compensation which is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.<sup>53</sup>

As worded, Section 22 now allows the deduction of fine from the respondent’s salaries and benefits, *including accrued leave credits*, if the fine is not paid within the prescribed three-month period from promulgation of the decision or resolution. To clarify, such deduction does not amount to forfeiture of accrued leave credits, which is *prohibited*. The rule remains that despite their dismissal from service, government employees are entitled to the leave credits that they have earned during the period of their employment, and may not be deprived of such remuneration which they have already earned prior to their dismissal.<sup>54</sup>

In *Usama v. Tomarong*,<sup>55</sup> Judge Tomarong was fined a total of PHP 220,000.00, for two counts of gross ignorance of the law and two counts of gross misconduct, in lieu of suspension in view of his optional retirement. The Court *En Banc* ordered that in case of his failure to pay the fine within three months from promulgation of the judgment, the same shall be deducted from his retirement benefits, including accrued leave credits.

**ACCORDINGLY, EXECUTIVE JUDGE ERWIN VIRGILIO P. FERRER (ret.)**, Branch 20, Regional Trial Court, Naga City, Camarines Sur, is found **LIABLE** for violation of Administrative Circular No. 5 dated October 4, 1988 and **DIRECTED to pay the fine of PHP 35,000.00** to the Court within three months from promulgation of this Decision. Should he fail to do so, such amount shall be deducted from his salaries and benefits, including his accrued leave credits which he has earned by reason of his government service.

The other charges are **DISMISSED** for lack of merit.


<sup>53</sup> See <https://sc.judiciary.gov.ph/21-08-09-sc-further-amendments-to-rule-140-of-the-rules-of-court/> (Last accessed: November 27, 2023).

<sup>54</sup> *Paredes v. Padua*, 471 Phil. 31, 38 (2004) [Per J. Panganiban, *En Banc*].

<sup>55</sup> A.M. No. RTJ-21-017 [Formerly OCA IPI No. 19-4935-RTJ]. March 08, 2023 [Per J. Rosario, *En Banc*].

This Decision is immediately executory.

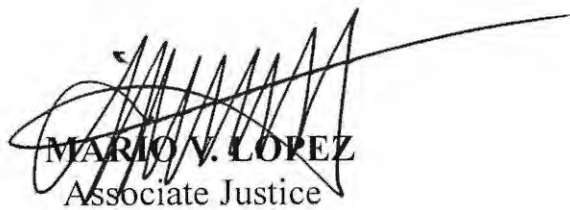
**SO ORDERED.**



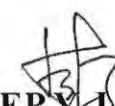
**AMY C. LAZARO-JAVIER**  
Associate Justice  
Acting Chairperson

**WE CONCUR:**

(on official business)  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson



**MARIO V. LOPEZ**  
Associate Justice



**JHOSEP Y. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice