



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

**SONIA C. DECENA and
REY C. DECENA,**
Petitioners,

A.M. No. RTJ-10-2217

Present:

-versus-

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

**JUDGE NILO A. MALANYAON,
REGIONAL TRIAL COURT,
BRANCH 32, IN PILI,
CAMARINES SUR,**
Respondent.

Promulgated:

APR 08 2013

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DECISION

BERSAMIN, J.:

A judge may not involve himself in any activity that is an aspect of the private practice of law. His acceptance of an appointment to the Bench inhibits him from engaging in the private practice of law, regardless of the beneficiary of the activity being a member of his immediate family. He is guilty of conduct unbecoming of a judge otherwise.

Antecedents

The complainants have lodged an administrative complaint for conduct unbecoming a judge against Hon. Nilo A. Malanyaon, the Presiding Judge of the Regional Trial Court, Branch 32, in Pili, Camarines Sur.¹

In their joint complaint-affidavit dated April 10, 2007,² the complainants averred that complainant Rey C. Decena had brought an administrative case in Regional Office No. V of the Civil Service

¹ Rollo, pp. 4-17.

² Id.

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Commission in Legaspi City, Albay against Judge Malanyaon's wife, Dr. Amelita C. Malanyaon (Dr. Amelita), then the Assistant Provincial Health Officer of the Province of Camarines Sur; that during the hearing of the administrative case on May 4, 2006, Judge Malanyaon sat beside his daughter, Atty. Ma. Kristina C. Malanyaon, the counsel of Dr. Amelita in the case; and that the events that then transpired were as recounted in the joint complaint-affidavit, to wit:

3. During the early stage of the hearing when the hearing officer, Atty. Dennis Masinas Nieves, brought up the matter regarding Dr. Malanyaon's manifestation or motion (to dismiss the case for lack of jurisdiction), Judge Malanyaon coached her daughter in making manifestations/motions before the hearing officer, by scribbling on some piece of paper and giving the same to the former, thus prompting her daughter to rise from her seat and/or ask permission from the officer to speak, and then make some manifestations while reading or glancing on the paper given by Judge Malanyaon. At one point, Judge Malanyaon even prompted her daughter to demand that Atty. Eduardo Loria, the collaborating counsel of our principal counsel, Atty. Mary Ailyne Zamora, be required to produce his PTR number.

4. When our principal counsel, Atty. Zamora, arrived and took over from Atty. Loria, she inquired regarding the personality of Judge Malanyaon, being seated at the lawyer's bench beside Atty. Malanyaon, Judge Malanyaon then proudly introduced himself and manifested that he was the "counsel of the respondent's counsel". Atty. Zamora proceeded to raise the propriety of Judge Malanyaon's sitting with and assisting his daughter in that hearing, being a member of the judiciary, to which Judge Malanyaon loudly retorted that he be shown any particular rule that prohibits him from sitting with his daughter at the lawyers' bench. He insisted that he was merely "assisting" her daughter, who "just passed the bar", defend the respondent, and was likewise helping the latter defend herself. Pertinent portion of the records of the proceedings are as follows:

x x x x

Atty. Nieves : First, she has to enter her appearance. Okay?

Atty. Zamora : Anyway, ... I don't think, I do not memorize my PTR number, I don't remember my PTR number, but aside from that Your Honor, I think this Honorable Hearing Officer could take judicial notice that Atty. Ed Loria is indeed a lawyer in good standing in IBP. And moreover, Your Honor, I would like to inquire as to the personality of the gentleman next to the lawyer of the defendant or respondent, Your Honor?

Judge Malanyaon: I am the counsel of the complainant, ah, of the

respondent's counsel, I am Judge Malanyaon. I am assisting her. And so what?!!

- Atty. Zamora : Ah, you are the counsel of the ...
(interrupted)
- Atty. Nieves : There's no need to be belligerent...
let's calm down...
- Atty. Zamora : Your Honor, Your Honor, we all do
not know each other, and with due
respect to the judge, there is also a
hearing officer here Your Honor, and
I think Your Honor the Hearing
Officer here deserves due respect. I
mean, the word "So what?!", I don't
think that would be proper Your
Honor in this Court.
- Judge Malanyaon : I am sorry your Honor, because the
... is out of turn, out of turn.
- Atty. Nieves : This is not necessary, actually, this is
not necessary. So we might as well
proceed with our hearing today. I've
already made a ruling regarding the,
the query regarding PTR. Okay, at
this stage it is not proper considering
that Atty. Loria only entered his
appearance during the start of the
hearing. Okay. So, we have to
proceed now.
- Atty. Zamora : I am accepting Your Honor the
delegation again of Atty. Loria. I am
entering my appearance as the lead
counsel for this case, Your Honor, as
counsel for the complainant.
- Atty. Nieves : Okay.
- Atty. Zamora : And may I be clear that the judge
will be the collaborating counsel for
the respondent or the counsel of
record of the respondent?
- Atty. Nieves : ... of the judge is ... I'm sorry?
- Atty. Zamora : He manifested Your Honor that he is
the counsel of the respondent.
- Atty. Malanyaon : No, the counsel of the counsel of
the respondent.**

- Atty. Nieves : He has not, he has not entered his appearance in this case.
- Atty. Zamora : Would that be proper for him Your Honor, considering that he is a judge Your Honor? Would that, ah, there will be undue influence, or whatever, Your Honor? We are just trying to avoid any bias or undue influence in this court, Your Honor.
- Atty. Nieves : Okay, it will not, considering the fact that he has not entered his appearance for the respondent.
- Judge Malanyaon : If Your Honor, please, the respondent is my wife. Counsel for the respondent is my daughter. She just passed the bar! I'm assisting her. Is it not my right, my duty to assist my daughter? And to assist my wife defend herself? I am only sitting with my daughter! I'm not acting for the respondent!**
- Atty. Zamora : I don't think Your Honor under the rule, the counsel needs a counsel. Only the one charged or the one being charged needs a counsel.
- Atty. Nieves : Okay, let's settle this now. Judge Malanyaon has not entered his appearance. It will not in any way ...

X X X X

The complainants averred that the actuations of Judge Malanyaon during the hearing of his wife's administrative case in the Civil Service Commission constituted violations of the *New Code of Judicial Conduct for the Philippines Judiciary*.

On June 21, 2007, then Court Administrator Christopher O. Lock required Judge Malanyaon to comment on the complaint.³

On July 15, 2007, Judge Malanyaon filed his comment, refuting the allegations of the complaint thusly:

³ Id. at 18.

1. Complainants are the sister and nephew of my wife, Amelita C. Malanyaon, there is bad blood between them arising from divergent political loyalties and family differences;
2. There is no reason for complainants to take offense at my sitting beside my daughter Ma. Kristina, when she appeared for my wife in the first hearing of the administrative case Rey C. Decena filed against my wife; the hearing officer himself could cite no rule disallowing me from sitting beside my daughter, in the counsel's table, and he did not ask me to vacate where I sat beside my daughter; the transcript does not support complainants' claim;
3. It is true I snapped at Atty. Zamora, when she asked about my personality – but she was speaking out of turn as all I was doing was sitting beside my daughter when she came as the transcript will show, I apologized to the hearing officer, who graciously let the matter pass;
4. My daughter is a new practitioner; her law partner and lead counsel could not make it on time, and as her consultant, I did not speak, nor enter my appearance for my wife – to lend a helping hand to a neophyte lawyer, defending her mother in an administrative case, is not unethical, nor does it constitute the proscribed practice of law;
5. It is petty for my sister-in-law and for my nephew to complain of my presence during the hearing; it is my filial duty to lend my wife and daughter, moral and legal support in their time of need; indeed, it is strange for complainants to take offense at my presence and accuse me of practicing law during my stint as a judge when before the bad blood between my wife and her sibling and nephew erupted, I helped them out with their legal problems *gratis et amore* and they did not complain of my practicing law on their behalf, indeed, one of the crosses a judge must carry is the cross of ingratitude.⁴

On March 27, 2008, then Court Administrator Zenaida N. Elepaño recommended to the Court that: (a) the complaint be re-docketed as a regular administrative matter; (b) Judge Malanyaon be found guilty of gross misconduct; and (c) Judge Malanyaon be fined ₱50,000.00.⁵

On September 16, 2009, the Court required the parties to manifest within 10 days from notice if they were willing to submit the case for resolution on the basis of the records or pleadings filed.⁶

The complainants complied on November 13, 2009, stating their willingness to submit the case for resolution after a formal investigation or hearing was conducted, and after they were given time to file their respective position papers or memoranda.⁷

⁴ *Rollo*, pp. 19-20.

⁵ *Id.* at 3.

⁶ *Id.* at 38.

⁷ *Id.* at 39.

On January 11, 2010, the Court resolved: (a) to re-docket the administrative case as a regular administrative matter; (b) to await Judge Malanyaon's compliance with the September 16, 2009 resolution; and (c) to refer the administrative matter to the OCA for evaluation, report and recommendation.⁸

After Judge Malanyaon did not submit any compliance with the September 16, 2009 resolution, the Court ordered him on February 10, 2010 to show cause why he should not be disciplinarily dealt with or held in contempt for such failure, and further directed him to still comply with the resolution.⁹

On February 15, 2010, Judge Malanyaon's counsel informed the Court that Judge Malanyaon had meanwhile suffered a massive stroke on September 2, 2009 that had affected his mental faculties and made him unfit to defend himself here; and prayed for the suspension of the proceedings until Judge Malanyaon would have been found competent to comprehend and stand the rigors of the investigation.¹⁰

On April 12, 2010, the Court deferred action on the case, and required Judge Malanyaon to submit a medical certificate.¹¹

Judge Malanyaon submitted a medical certificate dated May 27, 2010, issued by the Philippine General Hospital, certifying that he had been confined thereafter from September 2, 2009 to October 19, 2009 for the following reason, to wit:

Cerebro Vascular disease, Hypertension Intra Cerebral Hematoma
Left Thalamus with obstructive Hydrocephalus; DM type II, Chronic
Obstructive Pulmonary disease; Pneumonia; Ileus (resolved);
Neurogenic bladder, Benign Prostatic Hypertrophy; Grave's disease;
Arthritis.

OPERATION PERFORMED:
Bilateral tube ventriculostomy¹²

Judge Malanyaon submitted two more medical certificates, the first dated October 5, 2010,¹³ certifying that, among others, he was undergoing regular check-up, and the other, dated January 24, 2011,¹⁴ certifying that his functional and mental status had been assessed as follows:

⁸ Id. at 42.

⁹ Id. at 44.

¹⁰ Id. at 45-47.

¹¹ Id. at 48.

¹² Id. at 50-52.

¹³ Id. at 58.

¹⁴ Id. at 65.

The severity and location of the hemorrhage in the brain resulted in residual epileptogenic focus (**Post**-gliotic seizures) and significant impairment of cognition, memory judgment behavior (**Vascular Dementia**). He has problems with memory recall, analysis of information, events and situations which may make defending himself difficult, if necessary. Although he is independent on ambulation, he requires assistance even in basic activities of daily living.¹⁵

The Court required the complainants to comment on Judge Malanyaon's medical certification dated October 5, 2010.

On July 18, 2011, however, Dr. Amelita submitted a manifestation and urgent motion to dismiss, seeking the dismissal of the administrative case against Judge Malanyaon upon the following grounds, to wit:

x x x x

2. Unfortunately, in a "Medical Certification" dated June 15, 2011 the original of which is attached hereto as Annex "1", the attending neurologist of my husband has pronounced him permanently mentally impaired. x x x.

x x x x

3. As a consequence, my husband has permanently lost the capacity to understand the nature and object of the administrative proceedings against him. He cannot intelligently appoint his counsel or communicate coherently with him. He cannot testify in his own behalf, and confront and cross-examine opposing witnesses. Indeed, he cannot properly avail himself of his rights in an adversarial administrative investigation;

4. Given the progressive mental impairment afflicting my husband, he has permanently lost the capacity to defend himself. Thus, to continue the administrative investigation against my husband who is no longer in any position to defend himself would constitute a denial of his right to be heard (*Baikong Akang Camsa vs. Judge Aurelio Rendon*, A.M. No. MTJ-02-1395 dated 19 February 2002).¹⁶

Even so, on September 26, 2011, we required the complainants to comment on the manifestation and motion of Dr. Amelita.¹⁷

Subsequently, Dr. Amelita submitted another motion dated January 23, 2012,¹⁸ praying for the dismissal of the case against Judge Malanyaon.

¹⁵ Id.

¹⁶ Id. at 70-73

¹⁷ Id. at 74-75

¹⁸ Id. at 82-84

On February 6, 2012, Court Administrator Jose Midas P. Marquez reiterated the recommendation made on March 27, 2008 by then Court Administrator Elepaño by recommending that: (a) the administrative case be re-docketed as a regular administrative matter; and (b) Judge Malanyaon be found guilty of gross misconduct and fined ₱50,000.00.¹⁹

On May 3, 2012, the Court received the complainants' compliance dated February 1, 2012,²⁰ as their response to the show cause order issued in relation to their failure to submit the comment the Court had required on September 26, 2011.²¹

On September 4, 2012, the Court received from Dr. Amelita an urgent *ex parte* motion for immediate resolution, praying that the motion to dismiss dated July 18, 2011 be already resolved.²²

Issues

For consideration and resolution are the following issues, namely: (a) whether or not Judge Malanyaon would be denied due process if the administrative case was not dismissed; (b) whether the actuations of Judge Malanyaon complained of constituted conduct unbecoming of a judge; and (c) if Judge Malanyaon was guilty of conduct unbecoming of a judge, what should be the correct sanction.

Ruling

We now discuss and resolve the issues accordingly.

1.

Respondent's right to due process is not violated by resolution of the case

In her manifestation with urgent motion to dismiss,²³ Dr. Amelita stressed that proceeding against Judge Malanyaon despite his present medical state would violate his right to due process. She stated:

3. As a consequence, my husband has permanently lost the capacity to understand the nature and object of the administrative proceedings against him. He cannot intelligently appoint his counsel or communicate coherently with him. He cannot testify in his own behalf,

¹⁹ Id. at 76-80

²⁰ Id. at 90-100

²¹ Id. at 81

²² Id. at 105-108.

²³ Id. at 70.

and confront and cross-examine opposing witnesses. Indeed, he cannot properly avail himself of his rights in an adversarial administrative investigation.²⁴

Opposing, the complainants argued that Dr. Amelita's concern was unfounded considering that Judge Malanyaon had not only been given the opportunity to be heard, but had been actually heard on their complaint.

The complainants' argument is well taken.

On August 3, 2007, or prior to his suffering the massive stroke that impaired his mental faculty, Judge Malanyaon already submitted his comment containing his explanations and refutations of the charge against him. His comment asserted that during the hearing of the administrative case of his wife in the Regional Office of the Civil Service Commission, the hearing officer did not even cite any rule that prohibited him from sitting beside his daughter who was then acting as the counsel of Dr. Amelita therein, or that inhibited him from assisting his daughter in the defense of his wife. He pointed out that although he had then lost his temper after the opposing counsel had inquired about his personality in that hearing, he had ultimately apologized to the hearing officer, who had in turn graciously let the matter pass.

Under the circumstances, Judge Malanyaon was accorded due process. In administrative cases, the requirement of due process is satisfied whenever the parties are afforded the fair and reasonable opportunity to explain their side of the controversy,²⁵ either through oral arguments or through pleadings.²⁶ That is what happened herein. Accordingly, Dr. Amelita's motion was bereft of basis, and should be denied.

2.

Actuations of Judge Malanyaon rendered him guilty of conduct unbecoming of a judge

The following actuations of Judge Malanyaon constituted conduct unbecoming of a judge upon the reasons set forth below.

First was Judge Malanyaon's occupying a seat beside his daughter that was reserved for the lawyers during the hearing. Such act displayed his

²⁴ Id. at 71.

²⁵ *Sahali v. COMELEC*, G.R. No. 201796, January 15, 2013; *Heirs of Jolly R. Bugarin v. Republic*, G.R. No. 174431, August 6, 2012, 678 SCRA 209, 225.

²⁶ *National Association of Electricity Consumers for Reforms, Inc. (NASECORE) v. Energy Regulatory Commission (ERC)*, G.R. No. 190795, July 6, 2011, 653 SCRA 642, 654.

presumptuousness, and probably even his clear intention to thereby exert his influence as a judge of the Regional Trial Court on the hearing officer in order for the latter to favor his wife's cause. That impression was definitely adverse against the Judiciary, whose every judicial officer was presumed to be a subject of strict scrutiny by the public. Being an incumbent RTC Judge, he always represented the Judiciary, and should have acted with greater circumspection and self-restraint, simply because the administrative hearing was unavoidably one in which he could not but be partisan. Simple prudence should have counselled him to avoid any form of suspicion of his motives, or to suppress any impression of impropriety on his part as an RTC judge by not going to the hearing himself.

Second was Judge Malanyaon's admission that his presence in that hearing was to advise his daughter on what to do and say during the hearing, to the point of coaching his daughter. In the process, he unabashedly introduced himself as the "counsel of the respondent's counsel" upon his presence being challenged by the adverse counsel, stating that his daughter was still inexperienced for having just passed her Bar Examinations. Such excuse, seemingly grounded on a "filial" duty towards his wife and his daughter, did not furnish enough reason for him to forsake the ethical conduct expected of him as a sitting judge. He ought to have restrained himself from sitting at that hearing, being all too aware that his sitting would have him cross the line beyond which was the private practice of law.

Section 35²⁷ of Rule 138 of the *Rules of Court* expressly prohibits sitting judges like Judge Malanyaon from engaging in the private practice of law or giving professional advice to clients. Section 11,²⁸ Canon 4 (*Propriety*),²⁹ of the *New Code of Judicial Conduct* and Rule 5.07³⁰ of the *Code of Judicial Conduct* reiterate the prohibition from engaging in the private practice of law or giving professional advice to clients. The prohibition is based on sound reasons of public policy, considering that the rights, duties, privileges and functions of the office of an attorney are inherently incompatible with the high official functions, duties, powers, discretion and privileges of a sitting judge. It also aims to ensure that judges give their full time and attention to their judicial duties, prevent them from extending favors to their own private interests, and assure the public of their impartiality in the performance of their functions. These objectives are

²⁷ Section 35. *Certain attorneys not to practice.* - No judge or other official or employee of the superior courts or of the Office of the Solicitor General, shall engage in private practice as a member of the bar or give professional advice to clients.

²⁸ Section 11. Judges shall not practice law while the holder of judicial office.

²⁹ Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

³⁰ RULE 5.07 - A judge shall not engage in the private practice of law. Unless prohibited by the Constitution or law, a judge may engage in the practice of any other profession provided that such practice will not conflict or tend to conflict with judicial functions.

dictated by a sense of moral decency and desire to promote the public interest.³¹

Thus, an attorney who accepts an appointment to the Bench must accept that his right to practice law as a member of the Philippine Bar is thereby suspended, and it shall continue to be so suspended for the entire period of his incumbency as a judge.

The term *practice of law* is not limited to the conduct of cases in court or to participation in court proceedings, but extends to the preparation of pleadings or papers in anticipation of a litigation, the giving of legal advice to clients or persons needing the same, the preparation of legal instruments and contracts by which legal rights are secured, and the preparation of papers incident to actions and special proceedings.³² To the Court, then, Judge Malanyaon engaged in the private practice of law by assisting his daughter at his wife's administrative case, coaching his daughter in making manifestations or posing motions to the hearing officer, and preparing the questions that he prompted to his daughter in order to demand that Atty. Eduardo Loria, collaborating counsel of the complainants' principal counsel, should produce his privilege tax receipt. Judge Malanyaon did so voluntarily and knowingly, in light of his unhesitating announcement during the hearing that he was the counsel for Atty. Katrina Malanyaon, the counsel of the respondent, as his response to the query by the opposing counsel why he was seated next to Atty. Malanyaon thereat.

Third was Judge Malanyaon's admission that he had already engaged in the private practice of law even before the incident now the subject of this case by his statement in his comment that "it is strange for complainants to take offense at my presence and accuse me of practicing law during my stint as a judge when before the bad blood between my wife and her sibling and nephew erupted, I helped them out with their legal problems *gratis et amore* and they did not complain of my practicing law on their behalf."³³ He thereby manifested his tendencies to disregard the prohibition against the private practice of law during his incumbency on the Bench.

Any propensity on the part of a magistrate to ignore the ethical injunction to conduct himself in a manner that would give no ground for reproach is always worthy of condemnation.³⁴ We should abhor any impropriety on the part of judges, whether committed in or out of their

³¹ *Omico Mining And Industrial Corporation v. Vallejos*, 63 SCRA 285, 299; also, *Carual v. Brusola*, A.M. No. RTJ-99-1500, October 20, 1999, 317 SCRA 54, 66.

³² *Ziga v. Arejola*, A.M. No. MTJ-99-1203, June 10, 2003, 403 SCRA 361, 368.

³³ *Rollo*, p. 20.

³⁴ *Naval v. Panday*, A.M. No. RTJ-95-1283, December 21, 1999, 321 SCRA 290, 303.

courthouses, for they are not judges only occasionally. The Court has fittingly emphasized in *Castillo v. Calanog, Jr.*:³⁵

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala and as a private individual. There is no dichotomy of morality; a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have very recently explained, a judge's official life cannot simply be detached or separated from his personal existence. Thus:

Being a subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.

Fourth was Judge Malanyaon's display of arrogance during the hearing, as reflected by his reaction to the opposing counsel's query on his personality to sit at the counsel table at the hearing, to wit:

I am the counsel of the complainant, ah, of the respondent's counsel, I am Judge Malanyaon. I am assisting her. **And so what?!!**

Judge Malanyaon's uttering "And so what?" towards the opposing counsel evinced his instant resentment towards the adverse parties' counsel for rightly challenging his right to be sitting on a place reserved for counsel of the parties. The utterance, for being made in an arrogant tone just after he had introduced himself as a judge, was unbecoming of the judge that he was, and tainted the good image of the Judiciary that he should uphold at all times.³⁶ It is true that the challenge of the opposing counsel might have slighted him, but that was not enough to cause him to forget that he was still a judge expected to act with utmost sobriety and to speak with self-restraint. He thereby ignored the presence of the hearing officer, appearing to project that he could forsake the decorum that the time and the occasion rightly called for from him and the others just because he was a judge and the other side was not. He should not forget that a judge like himself should be the last person to be perceived by others as a petty and sharp-tongued tyrant.

Judge Malanyaon has insisted that his actuations were excused by his filial obligation to assist his daughter, then only a neophyte in the Legal Profession. We would easily understand his insistence in the light of our

³⁵ A.M. No. RTJ-90-447, July 12, 1991, 199 SCRA 75, 83-84.

³⁶ *Seludo v. Fineza*, RTJ-04-1864, December 16, 2004, 447 SCRA 73, 82.

culture to be always solicitous of the wellbeing of our family members and other close kin, even risking our own safety and lives in their defense. But the situation of Judge Malanyaon was different, for he was a judicial officer who came under the stricture that uniformly applied to all judges of all levels of the judicial hierarchy, forbidding him from engaging in the private practice of law during his incumbency, regardless of whether the beneficiary was his wife or daughter or other members of his own family.

3.

What is the proper penalty?

Judge Malanyaon had been previously sanctioned by the Court on the following three occasions, namely: (a) A.M. No. RTJ-93-1090, with admonition for gross ignorance of the law and unreasonable delay in resolving motions;³⁷ (b) A.M. No. RTJ-99-1444, with reprimand for failure to resolve motions;³⁸ and (c) A.M. No. RTJ-02-1669, with a fine of ₱20,000.00 (coupled with a stern warning that a repetition of the same or similar act would be dealt with more severely) for conduct unbecoming of a judge.³⁹ He had other administrative cases that were dismissed.⁴⁰ Of the three administrative cases that merited sanctions, however, only the third should be considered as aggravating herein because it involved the similar offense of conduct unbecoming of a judge for which he had been given the stern warning of a more severe penalty upon a repetition.

However, our uniform treatment of administrative sanctions as having the nature of liabilities akin to those in criminal cases now brings us to offset such aggravating circumstance with the apparent fact that the actuations of Judge Malanyaon complained of had not been motivated by bad faith, or by any malice towards another. Indeed, he did not intend to thereby cause any prejudice to another, having so acted from a sincere, albeit misplaced, desire to go to the help of his wife and daughter.

Accordingly, the Court deems it condign and proper to mitigate the fine of ₱50,000.00 recommended by the Court Administrator by imposing on Judge Malanyaon a fine of ₱40,000.00. With his disability retirement from the Judiciary having been earlier granted by the Court, the fine shall be deducted from his remaining retirement benefits.

³⁷ *Cuadro v. Malanyaon*, A.M. No. RTJ-93-1090, June 6, 1994.

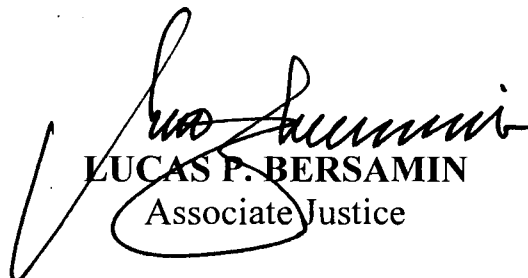
³⁸ *Tolentino v. Malanyaon*, A.M. No. RTJ-99-1444, August 3, 2000, 337 SCRA 162.

³⁹ *Decena v. Malanyaon*, A.M. No. RTJ-02-1669, April 14, 2004, 427 SCRA 153.

⁴⁰ Specifically, the following charges against Judge Malanyaon were dismissed, to wit: (a) 95-10-RTJ - conspiracy to commit oppression, manifest bias and partiality; (b) 977-322-RTJ - issuing a falsified decision; (c) 02-1554-RTJ - ignorance of the law; (d) 09-3078-RTJ - rendering unjust judgment; (e) 09-3090-RTJ - violations of the Constitution, the Rules of Court and the Code of Judicial Conduct; (f) 09-3310-RTJ - gross ignorance of the law, grave abuse of discretion and violation of due process; and (g) 10-3346-RTJ - grave misconduct, gross ignorance of the law, violation of the constitution and knowingly rendering unjust judgment.


WHEREFORE, the Court finds and pronounces **JUDGE NILO A. MALANYAON**, Presiding Judge of Branch 32 of the Regional Trial Court in Pili, Camarines Sur, administratively liable for conduct unbecoming of a Judge, and penalizes him with a fine of ₱40,000.00.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice