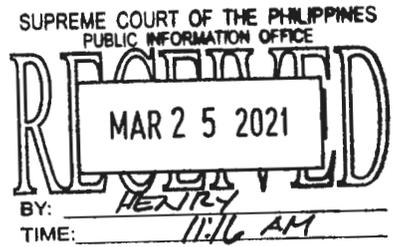




Republic of the Philippines
Supreme Court
Manila



***CORRECTED COPY**

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 29, 2020, which reads as follows:

“A.M. No. RTJ-16-2458 [formerly OCA IPI No. 11-3655-RTJ] (Freddie A. Venida v. Judge Arniel A. Dating, Branch 41, and Judge Winston S. Racoma, Branch 39, both of the Regional Trial Court, Daet, Camarines Norte; and OCA IPI No. 11-3608-RTJ (Freddie A. Venida v. Judge Winston S. Racoma, Regional Trial Court, Branch 39, Daet, Camarines Norte). – Before this Court are two (2) administrative complaints filed by Freddie A. Venida (Venida) against two judges of the Regional Trial Court (RTC) of Daet, Camarines Norte. The first,¹ dated 15 February 2011, charges Judge Winston S. Racoma (Judge Racoma), Presiding Judge of Branch 39, with Judicial Oppression and Gross Ignorance of the Law. The second,² dated 17 May 2011, accuses Daet RTC Executive Judge Arniel A. Dating (Executive Judge Dating) and Judge Racoma of Judicial Oppression, Gross Ignorance of the Law, and Graft and Corruption. Both complaints stem from Special Civil Action (SCA) No. 7788, entitled “*Cesar E. Barcelona and Jose Vargas v. Atty. Freddie Venida and Atty. Dominador Ferrer, Jr.*,” a Petition for *Quo Warranto* with Prayer for Temporary Restraining Order and/or Injunction.

Antecedents

Venida averred that he and Atty. Dominador I. Ferrer, Jr. (Ferrer) were duly appointed by Camarines Norte Governor Edgardo Tallado to serve as Directors of the Camarines Norte Water District (CNWD) effective 01 January 2011 to fill the posts to be vacated by Cesar E. Barcelona (Barcelona) and Jose M. Vargas (Vargas).³

¹ *Rollo*, OCA IPI No. 11-3608-RTJ, pp. 1-27.

² *Rollo*, OCA IPI No. 11-3655-RTJ, pp. 28-43.

³ *Rollo*, OCA IPI No. 11-3608-RTJ, p. 96.

**Title, 1st line, corrected to [formerly OCA IPI No. 11-3655-RTJ]*

However, on 10 January 2011, Barcelona and Vargas filed SCA No. 7788. Venida states that the petition, instead of indicating his and Ferrer's true addresses, declared a totally different set of addresses, which resulted in the non-service of summons and Notice of Special Raffle. Despite the lack of notice, Executive Judge Dating proceeded with the special raffle of the *quo warranto* petition which was assigned to Branch 41, his sala. After the raffle, attempts were made by the Sheriff of Branch 41 to notify Venida and Ferrer of the hearing on the application for Temporary Restraining Order (TRO) but the same were unsuccessful.⁴

On 13 January 2011, even without prior notice to and representation from Venida and Ferrer, the trial court proceeded with the hearing on the application for TRO. In the afternoon of the same day, the trial court received from Venida a pleading denominated as "Informal Communication" with the following motions: (1) Motion to Disqualify Atty. Archimedes Yanto (Atty. Yanto; counsel for Barcelona and Vargas); (2) Motion to Dismiss (for lack of jurisdiction over the person of Atty. Freddie A. Venida); and (3) Manifestation to File Motion to Dismiss on Other Grounds. Additionally, the trial court received from Ferrer an "Urgent Omnibus Motion with Motion to Disqualify Atty. Archimedes O. Yanto."⁵

On 14 January 2011, the hearing for the TRO resumed. Ferrer appeared before the court and argued that the Motion to Dismiss and the Motion to Disqualify Atty. Yanto should first be resolved. Ferrer also manifested that his appearance therein was only for the purpose of questioning the propriety of the *quo warranto* petition. However, in the afternoon of the same day, Executive Judge Dating issued an Order granting the TRO and, as directed, the Branch Sheriff served the same at the CNWD office.⁶

Subsequently, Venida and Ferrer were informed that the case was re-raffled to Branch 39, presided by Judge Racoma. Venida averred that while the case was already an on-going adversarial proceeding, no Notice of Raffle was received by him and Ferrer. Venida claimed that despite this fact, Judge

⁴ Id. at 96-97.

⁵ Id. at 97.

⁶ Id.

Racoma still accepted the case.⁷

Feeling that Judge Racoma lost the required neutrality in hearing SCA No. 7788, Venida and Ferrer separately filed motions seeking his inhibition.⁸

As previously scheduled by Executive Judge Dating in the Order dated 21 January 2011, the hearing on the Omnibus Motion and the reception of evidence *ad cautelam* for the Writ of Preliminary Injunction was set on 02 February 2011. In the hearing dated 02 February 2011, despite the insistence by Venida and Ferrer that the motions for inhibitions should first be resolved, Judge Racoma issued an order giving Barcelona and Vargas five (5) days within which to file their comment or opposition to said motions.⁹

On 03 February 2011, Judge Racoma issued an Order granting the issuance of a Writ of Preliminary Injunction enjoining Venida and Ferrer from assuming office and performing their functions as CNWD directors.¹⁰ On 23 February 2011, Judge Racoma issued an Order denying the motion to dismiss. Then on 09 March 2011, Judge Racoma issued an Order inhibiting from further hearing SCA No. 7788.¹¹

Consequently, Venida filed a complaint (OCA IPI No. 11-3608-RTJ) against Judge Racoma and accused him of gross ignorance of the law, judicial tyranny, and graft and corrupt practice when he issued the Order dated 03 February 2011 without first resolving the motion for inhibition, motion to dismiss, and other motions related to the TRO.¹² Venida claims that the judicial delay was an act of vindictiveness because he had hinted that Judge Racoma stalled the transmittal of the records of the petition to the Office of the Clerk of Court for its re-raffling on 10 March 2011.¹³

While the petition was not re-raffled on 10 March 2011 due to Judge Racoma's failure to immediately transmit the records, Venida claims that there was no reason for Executive Judge Dating not to cause the re-affle of the case on the following Thursday, 17 March 2011. Venida likewise averred

⁷ Id.

⁸ Id.

⁹ Id. at 97-98.

¹⁰ Id.

¹¹ *Rollo*, OCA IPI No. 11-3655-RTJ, pp. 90-91.

¹² Id. at 91.

¹³ Id.

that even if Executive Judge Dating went on official leave, he should have seen to it that the Vice-Executive Judge had assumed his functions during his absence, including the raffle of the *quo warranto* petition on 24 March 2011.¹⁴

Hence, Venida filed the administrative complaint against Executive Judge Dating and Judge Racoma (OCA IPI No. 11-3655-RTJ).

On 25 March 2011, Venida filed a “Motion to Include for Immediate Raffle, Regular or Otherwise,” to remind Executive Judge Dating of the delay in the re-raffle of the *quo warranto* petition. Venida asserted that both Executive Judge Dating and Judge Racoma seem to have a biased and one-sided application on the speedy administration of justice when they hastily issued the TRO and Writ of Preliminary Injunction in SCA No. 7788, yet deliberately delayed the resolution of the pending omnibus motions and motions for inhibition, as well as the re-raffle of the petition.¹⁵

In his Comment¹⁶ dated 24 June 2011, Executive Judge Dating averred that the allegations in the complaint are reiterations of the complaint filed by Ferrer in OCA IPI No. 3637-RTJ. Also, while Executive Judge Dating admitted to being in the Daet RTC’s premises during his official leaves of absence, he claimed he was evaluating pending cases and preparing draft orders and decisions, and did not act officially during these times.¹⁷

With respect to the re-raffle of the *quo warranto* petition during his absence, Executive Judge Dating argued that the Clerk of Court and the Vice-Executive Judge are knowledgeable in the protocols during his absence. He further claimed that he was on official leave when the Motion to Include for Immediate Raffle was received by the Office of the Clerk of Court.¹⁸

In an Indorsement dated 25 May 2011, Judge Racoma was required to submit his comment on the original complaint but he failed to file any responsive pleading. The Office of the Court Administrator (OCA) reiterated

¹⁴ Id.

¹⁵ Id. at 91-92.

¹⁶ Id. at 73-75.

¹⁷ Id. at 73-74, 92.

¹⁸ Id. at 92.

its directive to Judge Racoma on 25 October 2011, 01 March 2012, and 19 April 2012, but the latter still failed to file any responsive pleading.¹⁹

Report and Recommendation of the OCA

The OCA submitted its Report and Recommendation²⁰ on the complaints on 18 March 2016.

Re: Executive Judge Dating

The OCA recommended that Executive Judge Dating be found guilty of simple neglect of duty and be meted a fine in the amount of P10,000.00, with a stern warning that a repetition of the same or any similar infraction shall be dealt with more severely.²¹

The OCA found Executive Judge Dating's explanation as to his failure to immediately cause the re-raffle of the *quo warranto* petition unacceptable. Executive Judge Dating had explained that he found no urgency to conduct a raffle since the judges were travelling that day, 17 March 2011, to Manila to attend the First General Assembly of Judges the following day.²² The OCA held that Executive Judge Dating violated Chapter V of A.M. No. 03-8-02-SC, specifically on the re-raffle of cases where the judge had inhibited from the case.²³

The OCA observed that Executive Judge Dating conducted trials in his court on the morning of 17 March 2011, yet no raffle was conducted under his control and supervision. It found that the raffle, which could have been done in less than an hour, was delayed for six (6) weeks.²⁴ The OCA also noted the letter dated 17 March 2011 of DCA Jesus Edwin Villasor, which expressed his dilemma in the conduct of raffle of cases during Executive

¹⁹ Id. at 92-93.

²⁰ Id. at 90-100.

²¹ Id. at 99.

²² Id. at 93-94.

²³ SEC. 8. Raffle and re-assignment of cases in ordinary courts where judge is disqualified or voluntarily inhibits himself/herself from hearing case.— (a) Where a judge in a multiple-branch court is disqualified or voluntarily inhibits himself/herself, the records shall be returned to the Executive Judge and the latter shall cause the inclusion of the said case in the next regular raffle for re-assignment. A newly-filed case shall be assigned by raffle to the disqualified or inhibiting judge to replace the case so removed from his/her court.

²⁴ *Rollo*, OCA IPI No. 11-3655-RTJ, pp. 94-95.

Judge Dating's leave as the latter seemed to flip-flop and contradict himself. Thus, the OCA found Executive Judge Dating guilty of simple neglect of duty for his inefficiency in supervising the raffle and his failure to adhere to the rules on the raffle of cases. The OCA recommended the penalty of fine instead of suspension in order not to disrupt the conduct of court proceedings.²⁵

Re: Judge Racoma

The OCA recommended that Judge Racoma be found guilty of insubordination and violation of Supreme Court rules, directives, and be meted a fine in the amount of ₱10,000.00, with a stern warning that a repetition of the same or any similar infraction shall be dealt with more severely.²⁶

While the OCA found the charges of gross ignorance of the law against Judge Racoma to be unmeritorious, it nevertheless held that Judge Racoma deliberately failed to file his comment despite the numerous opportunities given by OCA. The OCA noted Judge Racoma's indifference to the Court's directives, thereby violating Section 8 of Canon 1, Section 2 of Canon 2 of the New Code of Judicial Conduct for the Philippine Judiciary, and Canon 11 of the Code of Professional Responsibility.²⁷

Ruling of the Court

Initially, the Court takes judicial notice of its Decision dated 07 November 2017 in *Atty. Ferrer v. Judge Dating (Ferrer)*,²⁸ which arose from the same facts pertaining to SCA No. 7788. In that case, Ferrer had charged Executive Judge Dating with abuse of authority, judicial oppression, and unreasonable/malicious acts to delay raffle of cases for the unreasonable delay in the re-raffle of SCA No. 7788, which are the same acts complained of in the present case. In *Ferrer*, the Court held that Executive Judge Dating was guilty of simple neglect and was meted a fine of ₱10,000.00, with a

²⁵ Id. at 95-96.

²⁶ Id. at 99-100.

²⁷ Id. at 97-98.

²⁸ 820 Phil. 547 (2017).

stern warning that a repetition of the same or any similar infraction will be dealt more severely.²⁹

With the decision in *Ferrer*, the Court has already penalized Executive Judge Dating for the acts complained of in the present consolidated complaints. Executive Judge Dating cannot be administratively penalized twice for the same act.

The Court likewise notes our decision in *Tallado v. Judge Racoma*.³⁰ In said case, the Court dismissed the administrative complaint against Judge Racoma, which had different factual circumstances, for lack of merit. However, the Court found him guilty of insubordination under Section 9, Rule 140 of the Rules of Court for his failure to submit the required comment in compliance with the Court's orders and imposed the fine of P11,000.00. The Court therein also considered Judge Racoma's previous administrative liabilities in A.M. No. RTJ-14-2373 (formerly OCA IPI No. 10-3533-RTJ)³¹ and A.M. No. RTJ-10-2233,³² where he was imposed a fine of P5,000.00 each, and sternly warned that a repetition of the same or any similar infraction will be dealt more severely.

With respect to Judge Racoma, the Court modifies the findings and recommendation of the OCA. The OCA found that the charge for gross ignorance of the law in relation to his issuance of an order granting the issuance of Writ of Preliminary Injunction against Judge Racoma to be unmeritorious. Assuming that Judge Racoma erred in the issuance of the order, his error may be corrected not through administrative or disciplinary sanctions but by available judicial remedies. It has been repeatedly held that errors, if any, committed by a judge, in the exercise of his or her judicial functions, cannot be rectified through administrative proceedings, but should be assailed through judicial remedies.³³

On the other hand, Judge Racoma's deliberate act of refusing to file the required comment, despite opportunities to do so, shows that he failed to comply with the directives of the Court. Moreover, Judge Racoma should be

²⁹ Id at 555.

³⁰ A.M. No. RTJ-18-2536, 10 October 2018, 883 SCRA 56.

³¹ *Tee v. Judge Racoma*, 07 April 2014 (Unsigned Resolution) as cited in *Tallado v. Racoma*, A.M. No. RTJ-18-2536, 10 October 2018, 883 SCRA 56, 65.

³² *Brinas v. Judge Racoma*, 28 April 2010 (Unsigned Resolution) as cited in *Tallado v. Racoma*, A.M. No. RTJ-18-2536, 10 October 2018, 883 SCRA 56, 65.

³³ *Re: Verified Complaint of AMA Land, Inc. against Justices Bueser, et al., of the Court of Appeals*, 701 Phil. 462, 468 (2013).

reminded that it is through the OCA that the Court exercises supervision over all lower courts and personnel thereof. His repeated refusal to comply with the directives of the OCA to comment on the complaint constitutes a clear and willful disrespect for the lawful orders of the OCA, which amounts to insubordination.³⁴

Under Section 9, Rule 140 of the Rules of Court, violation of the Supreme Court's rules, directives and circulars is considered as a less serious offense.³⁵ Section 11 thereof states that a less serious offense merits suspension from office or a fine:

SECTION 11. Sanctions. — xxx

B. If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

1. Suspension from office without salary and other benefits for not less than one (1) nor more than three (3) months; or
2. A fine of more than P10,000.00 but not exceeding P20,000.00.

x x x x³⁶

Notably, this is Judge Racoma's fourth administrative offense. He was previously held administratively held liable in A.M. No. RTJ-18-2536, (10 October 2018), A.M. No. RTJ-14-2373 (formerly OCA IPI No. 10-3533-RTJ) and A.M. No. RTJ-10-2233, where he was fined P11,000.00, P5,000.00, and P5,000.00, respectively. In A.M. No. RTJ-18-2536, Judge Racoma committed the same administrative offense, which is failure to comply with the directive of the Court. In the previous cases, Judge Racoma has been sternly warned that a repetition of the same or similar offense shall be dealt with more severity by the Court.

In *Atty. Amante-Descallar v. Judge Ramas*,³⁷ the judge therein committed a less serious offense for the second time. The Court held that a less serious offense is punishable by suspension without salary and other benefits for not less than one (1) month nor more than three (3) months or a fine of more than P10,000.00 but not exceeding P20,000.00. Nevertheless,

³⁴ See *Pacquiring v. Judge Gobarde*, 550 Phil. 58, 62 (2007).

³⁵ *Supra* note 30.

³⁶ Amendment to Rule 140 of Rules of Court Re: Discipline of Justices and Judges, 11 September 2001.

³⁷ 653 Phil. 26 (2010).

since the judge therein was already retired, the Court only imposed a fine of P15,000.00.³⁸

Considering Judge Racoma's previous findings of administrative liabilities, the case at bar is his second finding of guilt for insubordination and fourth finding of administrative liability, the penalty must be modified accordingly. It is evident that Judge Racoma has a propensity for ignoring the directives of the Court. He remained undeterred despite the numerous penalties and stern warnings imposed upon him by the Court. Clearly, having already been meted a fine no less than four (4) times has not abated his habit of disregarding the Court's authority. As such, and since he is still in active duty, the Court imposes suspension from office without salary and other benefits for three (3) months in accordance with Rule 140 of the Rules of Court.

Nevertheless, the Court adopts the findings of the OCA that the administrative complaint for gross ignorance of the law against Judge Racoma lacks merit because it involves a judicial matter that can be addressed by filing the appropriate judicial action.

WHEREFORE, Judge Winston S. Racoma is found **GUILTY** of Insubordination under Section 9, Rule 140 of the Rules of Court. He is hereby **SUSPENDED** from service for three (3) months without salary and other benefits, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely by the Court.

The administrative complaint against Executive Judge Arniel A. Dating is **DISMISSED**.

Let a copy of this Resolution be furnished the Office of the Court Administrator to be attached to respondent's records.

³⁸ Id. at 35.

SO ORDERED.”

By authority of the Court:

Misa ADC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *24/25/21*

Mr. Freddie A. Venida
Complainant
Llanto Apts., Emerald Street
Happy Homes Centro, Phase 1
Barangay Lag-on, Daet
4600 Camarines Norte

Hon. Winston S. Racoma
Presiding Judge
REGIONAL TRIAL COURT
Branch 39, Daet
4600 Camarines Norte

Hon. Arniel A. Dating
Presiding Judge
REGIONAL TRIAL COURT
Branch 41, Daet
4600 Camarines Sur

Hon. Jose Midas P. Marquez
Court Administrator
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Raul Bautista Villanueva
Hon. Jenny Lind R. Aldecoa-Delorino
Hon. Leo T. Madrazo
Deputy Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

Hon. Lilian C. Barribal-Co
Hon. Maria Regina Adoracion Filomena M. Ignacio
Assistant Court Administrators
OFFICE OF THE COURT ADMINISTRATOR
Supreme Court, Manila

JUDICIAL AND BAR COUNCIL
Supreme Court, Manila

PHILIPPINE JUDICIAL ACADEMY
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**RTJ-16-2458 [Formerly OCA IPI No. 11-3655-RTJ]
[OCA IPI No. 11-3608-RTJ]**

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SO ORDERED.”

By authority of the Court:

Misael C. Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *7/29/20*

Mr. Freddie A. Venida
Complainant
Llanto Apts., Emerald Street
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4600 Camarines Norte

Hon. Winston S. Racoma
Presiding Judge
REGIONAL TRIAL COURT
Branch 39, Daet
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[OCA IPI No. 11-3608-RTJ]**

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**(146)
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since the judge therein was already retired, the Court only imposed a fine of P15,000.00.³⁸

Considering Judge Racoma's previous findings of administrative liabilities, the case at bar is his second finding of guilt for insubordination and fourth finding of administrative liability, the penalty must be modified accordingly. It is evident that Judge Racoma has a propensity for ignoring the directives of the Court. He remained undeterred despite the numerous penalties and stern warnings imposed upon him by the Court. Clearly, having already been meted a fine no less than four (4) times has not abated his habit of disregarding the Court's authority. As such, and since he is still in active duty, the Court imposes suspension from office without salary and other benefits for three (3) months in accordance with Rule 140 of the Rules of Court.

Nevertheless, the Court adopts the findings of the OCA that the administrative complaint for gross ignorance of the law against Judge Racoma lacks merit because it involves a judicial matter that can be addressed by filing the appropriate judicial action.

WHEREFORE, Judge Winston S. Racoma is found **GUILTY** of Insubordination under Section 9, Rule 140 of the Rules of Court. He is hereby **SUSPENDED** from service for three (3) months without salary and other benefits, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely by the Court.

The administrative complaint against Executive Judge Arniel A. Dating is **DISMISSED**.

Let a copy of this Resolution be furnished the Office of the Court Administrator to be attached to respondent's records.

³⁸ Id. at 35.