

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 153

CONSIDERING DISTRICT JUDGE GAUDENCIO CLORIBEL OF THE
COURT OF FIRST INSTANCE OF MANILA AS
RESIGNED FROM OFFICE

This is an administrative case before the Supreme Court (Administrative Case No. 121-J), filed by the Secretary of Justice against the Honorable Gaudencio Cloribel, District Judge of the Court of First Instance of Manila, for serious misconduct and incompetence or inefficiency. Respondent judge, upon petition of complainant and as recommended by the Supreme Court, was suspended under Administrative Order No. 99 dated January 5, 1968, pending investigation of the charges. The case was thereafter investigated by a Justice of the Court of Appeals, who submitted his report and recommendation, and reviewed by the Supreme Court, which submitted to the President its report and recommendation, as embodied in the Per Curiam Resolution promulgated on November 12, 1968.

The charges against Respondent Judge are as follows:

1. That, in thirty-seven (37) specified cases, Respondent approved bail bonds submitted by bonding companies without the initial thereon of the Clerk of Court, attesting to his having verified that the company offering the bond has submitted its monthly statements of assets and liabilities and has no pending obligations to the Court in any amount, on account of unsatisfied execution upon its bonds, as required in a resolution of the Judges of First Instance of Manila.

Respondent, however, denies that the resolution of the Judges of First Instance of Manila requires prior verification and initialing of a bond by the Clerk of Court before a Judge may approve the same.

2. That in twelve (12) cases Respondent approved bail bonds even before the corresponding informations

had been filed in court. This is not denied by Respondent, who justifies his act by maintaining that a detained person is entitled to bail even if not yet formally charged with a crime.

3. That Respondent approved bail bonds in six (6) cases in amounts less than those recommended by the Fiscal in the respective information. This is also admitted by Respondent, who claims that, when he approved the bail bonds in question, he was motivated by no less than an ardent desire to give meaning to the constitutional right to bail.

4. That, in nine (9) cases, Respondent approved bail bonds although these cases were assigned to the Judges of other branches of the Court of First Instance of Manila, fixing bail in amounts much lower than those fixed by the Judges to whom the cases had been assigned; and that the approved bail bonds in some cases were issued by surety companies which were black-listed for failure to satisfy writs of execution upon other bonds issued by them.

Respondent admits that he approved bail bonds in cases assigned to other judges but alleges having done so, either because he was not aware at the time that these cases were already assigned to other judges or because such judges were absent or not readily available. He claimed that only two Judges of the Court of First Instance of Manila resided in this City and that, having acted upon the bail bonds at night, he had invariably been informed by the relatives of the accused that the other judges were not available. On the other hand, Respondent denies having approved any bond issued by a surety company not authorized to conduct business with the courts.

5. That, in twenty-one (21) cases, Respondent issued injunctions against the Commissioner of Immigration at the instance of Chinese nationals to prevent the confiscation of cash bonds filed in their behalf or prevent them from being arrested or expelled from the country.

6. That, in forty-five (45) cases, Respondent indiscriminately and illegally issued ex-parte writs of preliminary injunction and restraining orders although such ex-parte proceedings are discouraged by judicial ethics.

In answer to these two charges, Respondent justifies the injunctions and restraining orders on the ground that they were necessary to preserve the rights of the petitioners and prevent their cases from becoming moot; and that the same remedy had been granted by other judges in the Court of First Instance of Manila in similar cases with practically the same frequency, so that his errors, if any, in granting preliminary injunctions were merely errors of judgment not indicating misconduct or inefficiency.

7. That Respondent was first censured and later found guilty of contempt and fined by the Supreme Court for open defiance, placing Respondent's office in public disrepute and casting a very grave doubt on his fitness to stay any longer on the bench.

In his defense, Respondent pleads that he acted in good faith, claiming that he had no wilful intent to disobey the Supreme Court and that he was misled by the Office of the Solicitor General into doing so.

Reviewing the evidence, the Supreme Court finds that Respondent has satisfactorily explained his actuations as referred to in the first three charges. I agree that he should be exonerated from these charges. His approval of bail bonds not verified by the Clerk of Court was in order, there being no requirement of such verification either by the practice or express agreement of the Judges of the Court of First Instance of Manila (Resolution, page 5).

Neither can Respondent be faulted for approving bail bonds of persons against whom the corresponding informations had not yet been filed, they being already under arrest (Resolution, pages 5-6). Equally in order was his approval of bail in amounts less than those recommended by the Fiscal, it not having been shown that such amounts were unreasonable or that Respondent had otherwise abused his discretion (Resolution, page 6).

With respect, however, to the other charges, I concur with the findings of the Supreme Court, unanimously approved by the Chief Justice and eight Associate Justices, in its Per Curiam Resolution, declaring him guilty of such charges, as set forth on pages 25 to 32, inclusive, and quoted as follows:

"After a dispassionate consideration of the foregoing evidence, this Court has arrived at the following conclusions:

"1. Respondent has transcended the bounds of sound judicial discretion in allowing surety companies to abuse his apparent laxity in approving bail bonds on week-ends and holidays and/or at nighttime, resulting in his approval of bail bonds subscribed by bonding companies which had been previously black-listed, and, as such, were no longer qualified to conduct business with the Court of First Instance of Manila as previously agreed upon by its Judges. Certainly, a person's right to bail in proper cases must be recognized as soon as he is arrested; but this is not incompatible with that care, diligence, and precaution which Judges acting upon bail bonds are in duty bound to take, to be sure that the surety companies offering the bonds are solvent. Such a task should not be taken lightly. The only purpose of bail is to place the person of the accused within the court's jurisdiction and to guarantee his appearance when required, and it is the duty of the Judge approving the bail bond to make sure that the sureties are responsible and solvent in order that the said guaranty should be effective; otherwise, should bail bonds prove to be worthless or useless, as in the fourteen (14) cases above specified, not only shall public interest be affected but a downright mockery of the Rules be engendered. Respondent's acts in those cases speak loudly of his negligence, and show a plain disregard of the interest of the Government, which was

not at all difficult to avoid had he so minded. And to be sure, more caution should be exercised by Judges to avoid such occurrence, if We hope to keep the faith of the people in the courts of justice.

"2. The interference of Respondent in cases already assigned to the salas of other Judges of the Court of First Instance of Manila falls short of that circumspection and delicadeza that are reasonably expected of a judicial officer holding the esteemed and enviable position of judge of a court of first instance. There should be no disagreement that the fixing of the amount of bail in a given case is discretionary on the part of the judge taking cognizance thereof. But once an amount had been fixed by the said judge after a consideration of the nature and gravity of the offense charged, it would be the height of indiscretion on the part of another judge to modify it; for such would be tantamount to a substitution of the latter's own discretion to that of the other, which is bound to court the resentment of the judge who had previously fixed the amount of bail. Respondent, of course, pleads that when he fixed and approved the bail bonds in the cases in question, he was not aware that said cases were already assigned to the salas of other judges. But this can only mean that he never bothered to ask the persons presenting the bonds before him about the status of the cases wherein the said bonds were offered and thereby allowed his liberality and good faith to be abused. And even were We to assume for the moment, that Respondent had acted in good faith in the cases where he first made such interferences, still, subsequent cases wherein he reiterated the same acts of interference negate such assumption, for the stubborn fact remains that notwithstanding his controversy with another judge regarding such interferences, Respondent thereafter approved bail bonds

in three (3) other cases assigned to other judges.

"3. Respondent's issuance of restraining orders ex-parte, and without bond, in the various civil cases specified in the charges do not, in themselves, show manifest improvidence. It is true that restraining orders, unlike preliminary injunctions, are not expressly provided for in the Rules, but authorities recognize the inherent right of courts to grant immediate temporary relief pending the determination of whether or not a preliminary injunction should issue."

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"With respect to the preliminary injunctions issued ex parte by Respondent in the various other specified cases, it would appear from their number, and from the number of times We have stopped Respondent, through preliminary injunctions and restraining orders, from carrying out preliminary injunctions issued by him at his discretion as borne out by this Court's records, it is not hard to perceive that Respondent has created a pattern of judicial behavior that is not at all conducive to the proper regard of the judiciary in the estimation of the people. The issuance of preliminary injunctions, it is true, rests upon the sound judicial discretion of the Judge presiding the court, in the exercise of which the judge may err; errors of judgment are unavoidable elements of our judicial system. But when adverse reaction has been expressed by the highest court of the land in a number of cases involving a judge's exercise of that discretion, double care should surely be taken in order that such a censure will not recur. Respondent appears to be lacking in such self-restraint.

"4. Respondent's insistence in maintaining the preliminary injunctions he had issued against the Commissioner of Immigration in three (3) instances, even after the Supreme Court had definitely ruled that the Cabinet extensions granted to aliens were illegal shows unequivocally, that he had no respect for the ruling of the Highest Court of the land in those cases. Such norm of judicial conduct should be nipped in the bud, if only to sustain the people's faith in the courts of justice. And it is no wonder that Respondent should be the recipient, in one of the instances referred to, of the following reprobation from this Tribunal:

'Now, if a Judge of a lower Court feels, in the fulfillment of his mission of deciding cases, that the application of a doctrine promulgated by this Superiority is against his way of reasoning, or against his conscience, he may state his opinion on the matter, but rather than disposing of the case in accordance with his personal views he must first think that it is his duty to apply the law as interpreted by the Highest Court of the land, and that any deviation from a principle laid down by the latter would unavoidably cause, as a sequel, unnecessary inconveniences, delays and expenses to the litigants. And if despite of what is here said, a Judge, still believes that he can not follow our rulings, then he has no other alternative than to place himself in the position that he could properly avoid the duty of having to render judgment on the case concerned (Art. 9, C. C.), and he has only one legal way to

do that.' (Vivo v. Cloribel, L-23239, Nov. 23, 1966, citing People v. Santos, 56 O. G. 3546, 3552-3 3553.)

"5. Respondent's guilt of contempt of the Supreme Court is now judicially settled by final decision (Commissioner of Immigration vs. Cloribel, L-24139, August 31, 1967). His protestations of good faith must be rejected, for not only is good faith no defense in such proceedings (32 Corpus Juris 499) but its existence in said case is totally disproved by the fact that to this date, over one year since the decision became final, the respondent Judge has failed and refused to satisfy the fine of ₱100.00 imposed upon him by this Supreme Court. This, notwithstanding the fact that the non-payment was brought to light and amply argued in the hearing of this administrative case on October 3, 1968, where respondent Judge was personally present. We can not but take a serious view of such obduracy, since it plainly reveals a clear intent to ignore and defy the final orders of this Court. Such attitude, undesirable and deserving of repression in case of laymen, becomes intolerable in a subordinate member of the Judiciary. It betrays the absence of that 'becoming modesty of inferior courts which demands conscious realization of the position they occupy in the interrelation and operation of the integrated judicial system of the nation' (People vs. Judge Jose O. Vera, 65 Phil. 56, 82).

"In resume, this Court finds the Honorable Judge Gaudencio Cloribel guilty: (1) of gross negligence in approving bail bonds - issued by surety companies whose bonds were no longer acceptable to the Court of First Instance of Manila because they have been black-listed pursuant to the agreement of its Judges - in Criminal Cases Nos. 83110,

84145, 84159, 83726, 85685, 83029, 84270, 82236, 68778, 75685, 83191, 92921, 83413, and 83270; in fixing and approving bail bonds in said cases, and in the other criminal cases specified in the charges, when the records thereof were not before him to enable him, at least, to ascertain the true nature of the corresponding charges for purposes of fixing the reasonable amounts of bail, or to find out if they were already assigned to other Judges who might have previously fixed the amount of bail in said cases; in approving a surety bond of ₱2,000.00 for the release of the accused in Criminal Case No. 68778, notwithstanding the fact that another Judge had previously required said accused to post a cash bond of ₱3,000.00 as a condition for his provisional release, after he had jumped bail three (3) times; and in his issuance of preliminary injunctions ex-parte, as shown by the frequency in which writs improvidently issued by him in deportation and other civil cases have been stopped and/or set aside by this Court; (2) of usurpation of authority of the other Judges of the Court of First Instance of Manila in whose salas Criminal Cases Nos. 64543, 80586, 84395 and 68778 were already assigned, by fixing and approving bail bonds in said cases in amounts exceedingly less than those previously fixed therein by said Judges; and (3) of utter lack of respect for the rulings of the Highest Court of the Land in refusing to dismiss and/or lift the writs of preliminary injunction he had issued in Civil Cases Nos. 51574, 51626 and 63135 of the Court of First Instance of Manila, resulting in the stay in this country of the Chinese nationals involved in said cases beyond the period authorized by law, even after this Court had definitely ruled in previous cases that extensions granted to

overstaying aliens by the Secretary of Foreign Affairs and the Secretary of Justice under the so-called Cabinet Resolution of February 29, 1956, were illegal. Parenthetically, in Civil Case No. 50993, which is one of the cases specified in the charges, this Court has recently found that the same act of disrespect to the rulings of this Court has been committed by Respondent, prompting this Court to reprove him in rather strong language, to wit:

'The conclusions derivable from the foregoing chain of uncontested facts are: that herein private respondents secured admission to the Philippines as temporary visitors by falsely pretending to come for a visit but, actually, with the intent to stay permanently; that, knowing that their authorized stay would expire on 16 June 1962, private respondents filed their petition in court for injunction, then delayed its adjudication, the better to prolong their stay; and that private respondents have thus succeeded in prolonging their stay in the country even beyond the date that they had originally sought and asked for, which was 11 April 1963, upon the respondent court's compounded abuse of discretion, inaction, and excess of jurisdiction.' (See *Vivo vs. Cloribel*, G.R. No. L-25411, Oct. 26, 1958) [Underscoring supplied]

"Finally, this Court finds respondent Judge guilty of deliberate and culpable refusal to comply with the orders of this Court by deciding the case of *Tobiano Co.*,

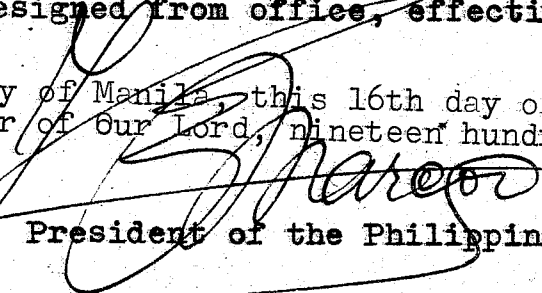
et. al. vs. Vivo, Case No. 58782, of the Court of First Instance of Manila, in violation of the writs of injunction issued by this Court (ante, pages 23-25) and for which said respondent was fined for contempt of court in G.R. No. L-24139, August 31, 1967 (Commissioner of Immigration vs. Cloribel), and by ignoring and refusing to pay the ₱100.00 fine therein imposed, despite the lapse of one year, as stated in page 29 of this report.

"It is the considered opinion of this Court, after mature deliberation over the facts, that the respondent Judge is guilty not only of negligence, as contended by him, but of serious misconduct and incompetence. The circumstances made manifest in the course of these administrative proceedings prove respondent to be insensitive to the dignity and ethics of the judicial office that demand that judges, more than any other officials, set the example and comport themselves at all times like Caesar's wife, avoiding at all cost to give grounds for suspicion. Respondent's disregard and refusal to comply with lawful orders of the Supreme Court, and his recklessness in the other cases of which he is heretofore found guilty, bid fair to undermine the authority and reputation of the Supreme Court. Even more, respondent's behavior places the Philippine Judiciary in extremely unfavorable light from the view point of the general public. How can the latter be expected to obey court orders, if the judges themselves set the example in contemptuously ignoring final and lawful orders of superior courts, and in invading the prerogatives and jurisdiction of other judges of equal category?"

"Public officials with such predisposition to callous disregard of the proprieties in the performance of judicial functions have no place in the Judiciary, for it is peculiarly essential that the system for establishing and dispensing Justice be developed to a high degree of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. It is in this spirit that we find no alternative, under the circumstances of this case, but to act accordingly with the end in view to dissipating the cloud of public opprobrium to which the Bench has been exposed by the acts of Respondent."

Wherefore, and upon unanimous recommendation of the Supreme Court, Judge Gaudencio Cloribel is hereby considered resigned from office, effective January 5, 1968.

Done in the City of Manila, this 16th day of December, in the year of Our Lord, nineteen hundred and sixty-eight.


President of the Philippines

By the President:


RAFAEL M. SALAS
Executive Secretary