

## EN BANC

**[ A.M. No. RTJ-07-2074 [Formerly A.M. No. 07-5-18-SC], October 24, 2008 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
RET. JUDGE IRENEO LEE GAKO, JR., BRANCH CLERK OF COURT  
MANUEL G. NOLLORA, LEGAL RESEARCHER NILDA D. SUYKO,  
CLERK OF COURT VII ATTY. JEOFFREY S. JOAQUINO AND  
ADMINISTRATIVE OFFICER II, MONICA V. DIONALDO,  
RESPONDENTS.**

### RESOLUTION

#### **TINGA, J.:**

This is an Administrative Complaint against Retired Judge Ireneo Lee Gako, Jr., former Presiding Judge, Atty. Manuel G. Nollora, Branch Clerk of Court V, Nilda D. Suyko, Legal Researcher, Atty. Jeoffrey S. Joaquino, Clerk of Court VII and Monica V. Dionaldo, Administrative Officer III, Office of the Clerk of Court, all of the Regional Trial Court (RTC) of Cebu City, Branch 5 for alleged irregularities committed by them.

The antecedents, as culled from the report of the Executive Justice, follow.

In a letter dated 4 January 2007,<sup>[1]</sup> Judge Simeon P. Dumdum, Jr., then the Executive Judge of the RTC of Cebu City, reported to the Office of the Court Administrator (OCA) that during the incumbency of Judge Gako, Jr. as Presiding Judge of Branch 5, he acted upon and granted petitions for voluntary confinement and rehabilitation of drug dependents, although the cases were not raffled to his branch. Judge Dumdum, Jr. requested that an inquiry be conducted on the matter. Notably, Judge Gako, Jr. compulsorily retired from the service on 20 September 2006.<sup>[2]</sup>

Accordingly, from 12 to 15 March 2006, Atty. Rullynn S. Garcia, Judicial Supervisor of OCA, investigated the matter. She submitted her report on 26 April 2007 to then Senior Deputy Court Administrator (DCA) Zenaida N. Elepaño, after interviewing Judge Dumdum, Jr., Judge Ramon B. Daomilas, Atty. Jeoffrey S. Joaquino, Atty. Manuel G. Nollora, Monica V. Dionaldo and Nida D. Suyko.<sup>[3]</sup>

On 2 May 2007, DCA Elepaño favorably endorsed the report to Court Administrator Christopher O. Lock, who thereafter, submitted a memorandum with recommendations to the Chief Justice Reynato S. Puno.<sup>[4]</sup>

In a Resolution<sup>[5]</sup> dated 12 June 2007, the Court treated the matter as an administrative complaint against Judge Gako, Jr., Atty. Joaquino, Atty. Nollora, Ms. Dionaldo and Ms. Suyko. The Court held in abeyance the release of the retirement

benefits of Judge Gako, Jr. and required all respondents to show cause why no disciplinary action should be taken against them. The Court also directed Judge Daomilas to make a physical inventory of pending petitions for voluntary confinement and rehabilitation of drug dependents in Branch 5 and to transmit them to the Executive Judge for raffle among the drugs courts in Cebu City. On 11 September 1997, the instant administrative case was referred to the Court of Appeals Executive Justice stationed in Cebu for investigation, report and recommendation.<sup>[6]</sup>

In his Explanation/Comment dated 8 August 2007,<sup>[7]</sup> Judge Gako, Jr. submitted that he had no knowledge that the petitions involved were not raffled off to Branch 5. He claimed that the Executive Judge or his substitute was duty-bound to conduct the raffle and that none of his staff members had ever confided to him that the petitions were "smuggled" to Branch 5.

Judge Gako, Jr. contended that he honestly believed that his court had jurisdiction over the petitions because he did not receive any written order or instruction from the Supreme Court, or OCA, or the Executive Judge that petitions for Voluntary Confinement and Rehabilitation of Drug Dependents were to be handled by drugs courts exclusively. He even suggested to Judge Dumdum, Jr. that the petitions be referred to the drugs courts but the latter merely assured him that he would first secure a clearance from the Supreme Court. Thus, he did not doubt the jurisdiction of his court to handle the petitions involved.<sup>[8]</sup>

For his part, Atty. Joaquinio explained that it was Ms. Dionaldo's assignment to enter in the docket books and to raffle special proceedings cases such as petitions for voluntary confinement and rehabilitation of drug dependents. When he assumed office sometime in January 1995, he did not alter Ms. Dionaldo's work assignment as she was already quite adept at her duties.<sup>[9]</sup>

Atty. Joaquinio also clarified that before the designation of the drugs courts, all petitions for voluntary confinement and rehabilitation of drug dependents were raffled to all branches. The system changed sometime in the middle part of 2004 when a directive was issued stating that all petitions for voluntary confinement and rehabilitation of drug dependents must be raffled to designated drugs courts.

Atty. Joaquinio said that he did not suspect that Ms. Dionaldo would forward directly to Branch 5 the petitions without their having been raffled. Moreover, there was no complaint from Branch 5, relative to their receipt of said petitions directly from Ms. Dionaldo even without the accompanying minutes of the raffle.

After he discovered the anomaly, Ms. Dionaldo was relieved of her job assignment sometime in July 2006.<sup>[10]</sup>

Atty. Manuel G. Nollora, Branch Clerk of Court V of the RTC of Cebu City, Branch 5, denied the accusation that he failed to exercise control and supervision over Ms. Suyko, the legal researcher of Branch 5, who received the petitions from Ms. Dionaldo. He claimed that Ms. Suyko was fully aware of the regulation that all cases must be raffled. After receiving the petitions from Ms. Dionaldo, it was Ms. Suyko's duty to log them in the record book, to prepare the order for signing by Judge Gako, Jr. and thereafter, to release the order. He believed that all the petitions which were

delivered by Ms. Dionaldo to Branch 5 have been regularly raffled to their branch since he witnessed around eighty-eight (88) such petitions that were actually raffled.

Atty. Nollora stressed that even if it was his obligation to exercise control and supervision over the staff of Branch 5, each employee is still mandated to perform his or her assigned tasks with diligence and utmost care.<sup>[11]</sup>

Ms. Dionaldo explained that she had been designated as officer in-charge of raffling of Special Proceedings cases, including petitions for voluntary rehabilitation, even before Atty. Joaquino assumed office as Clerk of Court in 1995. She used to raffle such petitions to all regular courts. She admitted that after listening to the sad experiences related to her by petitioners, she was impelled to act on their cases without delay. Thus, she requested Judge Gako, Jr. of the RTC, Branch 5, to act on the petitions for rehabilitation. Ms. Dionaldo claimed that she did not forward the cases without the conformity of Judge Gako, Jr., while maintaining that the nature of such petitions needs swift response so as not to render nugatory its primary objective. Further, she explained that since the petitions were not adversarial, no one was prejudiced by their not having been raffled.<sup>[12]</sup>

Ms. Suyko, on the other hand, explained that it was her duty to receive the petitions after being forwarded to their branch by Ms. Dionaldo. She did not anymore inquire if the cases had indeed been raffled off to Branch 5 presuming that the cases brought to their office rightly belonged to their branch.

Judge Ramon B. Daomilas, Jr. reported that he had inventoried a total of 1,144 cases of Petitions for Rehabilitation received and acted upon by Branch 5 within the period 1986 to 2000. In 866 out of the 1,144 cases, the petitioner drug dependents were ordered released from confinement from drug rehabilitation centers, but were nonetheless required to undergo the aftercare and follow-up program. However, not a single report had been filed by the rehabilitation provider regarding the result of the aftercare program. Thus, he considered these cases still pending. Moreover, in 278 cases, the drug dependents have not been ordered released despite the lapse of the period of their confinement.<sup>[13]</sup>

After investigation, Executive Justice Antonio L. Villamor found respondents guilty of violating various Supreme Court circulars and administrative orders in relation to the raffle of cases. There is no extant proof, however, that respondents financially profited therefrom, the Executive Justice reported. Nevertheless, the Executive Justice recommended that respondents be sanctioned as follows:

1. Retired **JUDGE IRENEO LEE GAKO[, ] JR.**, Presiding Judge, RTC, Branch 5, Cebu City, be **FINED TWENTY THOUSAND PESOS (P20,000.00)** to be deducted from his retirement benefits, for acting without authority on cases or petitions for voluntary confinement of drug dependents within the period 1998-2006, in violation of Supreme Court rules, directives, and circulars regarded as a less serious charge;
2. **MS. MONICA V. DIONALDO**, Retired Administrative Officer, RTC, Branch 5, Cebu City, be **FINED** for misconduct and neglect of duty,

**equivalent to her salary for two months** to be deducted from her retirement benefits;

3. **MS. NIDA D. SUYKO**, Legal Researcher, RTC, Branch 5, Cebu City, be **FINED** for misconduct and neglect of duty, **equivalent to her salary for one month and one day**, and **STERNLY WARNED** that a repetition of the same or similar offense in the future will be dealt with more severely;
4. **ATTY. GEOFFREY S. JOAQUINO**, Clerk of Court, RTC, Cebu City, be **REPRIMANDED** for neglect of duty, and **STERNLY WARNED** that a repetition of the same or similar offense in the future will be dealt with more severely;
5. **ATTY. MANUEL G. NOLLORA**, Clerk of Court, RTC, Branch 5, Cebu City, be **REPRIMANDED** for neglect of duty, and **STERNLY WARNED** that a repetition of the same or similar offense in the future will be dealt with more severely.<sup>[14]</sup>

The recommendations except as to the amount of fine on Judge Gako, Jr. are well-taken.

The Court agrees with the Executive Justice that administrative sanctions should be imposed on the respondents. As correctly found by the Executive Justice, respondents ignored the procedure for the raffling of cases mandated by Supreme Court Circular No. 7, dated 23 September 1974, as amended by Supreme Court Circular No. 20, dated 4 October 1979, to wit:

#### **I. Raffling of Cases**

All cases filed with the Court in stations or grouping where there are two or more branches shall be assigned or distributed to the different branches by raffle. No case may be assigned to any branch without being raffled. The raffle of cases should be regularly conducted at the hour and on the day or days to be fixed by the Executive Judge. Only the maximum number of cases, according to their dates of filing, as can be equally distributed to all the branches in the particular station or grouping shall be included in the raffle. Cases in excess of the number sufficient for equal distribution shall be included in the next scheduled raffle, subject to the exceptions provided in paragraphs II and IV hereof.

#### **II. Notice**

Notice of the day and hour of the raffle shall be posted prominently in the bulletin boards of the Courts and at a conspicuous place at the main door of the session hall of the Executive Judge. Other notices to the parties may be sent as the interest of justice may require on request of any party and with the prior approval of the Executive Judge. There shall be no special raffle of any case except on meritorious application in writing by any party to the case and with the approval of the Executive Judge.

### III. Manner of Raffling

The raffle must be conducted at the lawyer's table in open court by the Executive Judge personally with the attendance of two other judges or, in case of the latter's inability, of their duly authorized representatives. In stations where there are only two salas[,] the Judges of both and either the Clerk of Court or the Branch Clerk of Court should be present. In the absence of the Executive Judge, the Judge at the station who is the most senior in point of appointment to the Judiciary shall personally conduct the raffle. Under no circumstance may any raffle be made in chambers. The raffle proceedings should be stenographically recorded, and minutes thereof shall be prepared and signed by the Judges (or their representatives) and the Clerk of Court in attendance. Immediately after the raffle on any particular day, the Executive Judge shall indicate the particular branch to which the case is assigned, the same to be written in words and in figures on the cover of the Rollo and on the first page of the original complaint or information and initialed by the Executive Judge and the other two officers who attended said raffle.

The raffle must be conducted in such manner that all the branches of the Court in that station or grouping[,] including vacant salas, shall receive more or less the same number of civil, criminal, and other kinds of cases.

For purposes of facilitating implementation of the foregoing rules, a Raffle Committee composed of the Executive Judge and two other judges shall, as much as practicable, be constituted.

Further, Supreme Court Administrative Circular No. 1, dated 28 January 1988 provides:

#### 8. *Raffle of Cases:*

8.1 Raffle of cases should be done in open session in the presence of lawyers and spectators, immediately after the court opens its sessions:

8.2 The Minutes of the Raffle should be distributed within 24 hours after completion thereof to the judges of the other salas, and a copy sent to the Office of the Court Administrator.

8.3 Special raffles should not be permitted except on verified application of the interested party who seeks issuance of a provisional remedy and only upon a finding by the Executive Judge that unless the special raffle is conducted, irreparable damage shall be suffered by the applicant. The special raffle shall be conducted by at least two judges in a multiple-sala station.

8.4 There must be strict compliance with Administrative Order No. 6, dated June 30, 1975, and Circular No. 7, dated 23 September 1974[,] requiring that no case may be assigned in multi-sala courts without raffle; a raffle committee composed of the Executive Judge and two other judges shall be