



PHILJA E-Alerts

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RTC JUDGES

- **Undue delay in rendering decision or order; Violation of Supreme Court rules and directives.**

Records disclose the undisputed delay in the disposition of numerous cases assigned to Branches 13 and 64 which was then presided by respondent judge, despite the OCA's directives for the immediate resolution of such cases. Despite the grant of his request for a two-month extension to comply with the directives, he still failed to resolve the pending cases subject of the memoranda dated August 28 and 30, 2012. In fact, as of December 2013, the List of Cases pending before Branch 13 indicates that 20 civil cases, 17 special proceedings, and 17 criminal cases are already deemed submitted for decision but have yet to be decided despite the lapse of the 90-day reglementary period. With respect to Branch 64, the monthly report of September 2013 states that 4 civil cases, 5 special proceedings, and a criminal case are already deemed submitted for decision but are still undecided despite the lapse of the reglementary period. No sufficient justification or valid reason is offered by respondent judge for his failure to decide the said cases within the reglementary period. Hence, he should be held administratively liable for such gross inefficiency.

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Meanwhile, the OCA duly noted that respondent judge's failure to comply with the directives in its memoranda dated August 28 and 30, 2012 also constitutes insubordination and disrespect for the Court's lawful orders and directives. It bears emphasis that judges should treat directives from the OCA as if issued directly by the Court and comply promptly and conscientiously with them since it is through the OCA that the Court exercises its constitutionally-mandated administrative supervision over all courts and the personnel thereof. Unjustified failure to comply with such directives constitutes misconduct and exacerbates administrative liability.

For his **undue delay in rendering decision or order** and for his **violation of Supreme Court rules and directives**, under Sections 9 and 11, Rule 140 of the Rules of Court, respondent judge was fined in the amount equivalent to three months' salary at the time of his retirement, to be deducted from his retirement/gratuity benefits **(A.M. No. RTJ-14-2385 [Formerly A.M. No. 14-4-115-RTC], April 20, 2016)**

- **Manifest bias and partiality; Voluntary inhibition.**

There is no basis for taking any administrative action against respondent judge for his denial of complainant's Motion to Inhibit.

Section 1, Rule 137 of the Revised Rules of Court provides for when a judge is mandatorily disqualified and when a judge may voluntarily inhibit from a case. Said rule is reproduced in full below:

SECTION 1. Disqualification of judges. – No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

None of the circumstances for the mandatory disqualification of a judge from a case applies to respondent judge.

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There is an absolute dearth herein of any evidence of respondent judge's bias or partiality, which would have required him to inhibit from Civil Case No. XXX. Respondent judge's series of orders adverse to complainant and favorable to spouses AAA, by itself, does not constitute sufficient proof, even if characterized by palpable error/s. Complainant did not allege, much less prove, any ill motive, corrupt purpose, or malicious intention behind respondent judge's orders. Unjustified assumptions and mere misgivings that the judge acted with prejudice, passion, pride, and pettiness in the performance of his functions cannot overcome the presumption that a judge shall decide on the merits of a case with an unclouded vision of its facts. The Court highlights that mere imputation of bias or partiality is not enough ground for inhibition, there must be extrinsic evidence of malice or bad faith on the judge's part. Moreover, the evidence must be clear and convincing to overcome the presumption that a judge will undertake his noble role to dispense justice according to law and evidence without fear or favor.

In the absence of clear and convincing evidence to prove the charge of bias and prejudice, a judge's ruling not to inhibit oneself should be allowed to stand. Because voluntary inhibition is discretionary, respondent judge was in the best position to determine whether or not there was a need to inhibit from the case, and his decision to continue to hear the case, in the higher interest of justice, equity, and public interest, should be respected.

Just as important is the fact that respondent judge issued the orders in the exercise of his judicial functions. The filing by complainant of an administrative case against respondent judge—to compel him to inhibit from Civil Case No. XXX—is not the proper remedy. The Court found no basis for taking any administrative action against respondent judge for his denial of complainant's Motion to Inhibit. **(A.M. No. RTJ-16-2455 [Formerly OCA I.P.I. No. 10-3443-RTJ], April 11, 2016)**

MTC JUDGES

- **Gross inefficiency in the performance of duties.**

In this case, respondent judge clearly failed to decide the 99 cases submitted for decision and resolve the 91 cases with pending incidents in his sala within the prescribed reglementary period—with some of those cases/incidents taking more than 10 years to be decided or resolved. In an attempt to absolve himself from administrative liability, respondent judge attributed such failure to heavy workload, and mentioned that in 2008, he suffered a stroke which limited his physical capability to decide cases or resolve incidents in his already docket-laden sala. However, records show that most of the cases and incidents for decision or resolution in his sala were submitted long before he suffered a stroke in 2008. Moreover, records are bereft of any showing that he requested for extensions of the period within which he can decide or resolve the aforesaid cases and incidents, or that he proffered any credible explanation for the delay in their disposition. Hence, the OCA correctly found respondent judge administratively liable.

It is settled that failure to decide or resolve cases within the reglementary period constitutes gross inefficiency. It is a less serious charge and is punishable by either suspension from office without salaries and benefits for not less than one month, but not more than three months, or a fine of more than P10,000, but not exceeding P20,000. It must be noted, however, that the fines imposed on each judge may vary, depending on the number of cases undecided or matters unresolved by said judge within the reglementary period, plus the presence of aggravating or mitigating circumstances, such as the damage suffered by the parties as a result of the delay, the health and age of the judge, and other analogous circumstances.

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For gross inefficiency in the performance of his duties respondent judge was fined in the amount of P75,000, with a **STERN WARNING** that the commission of the same or similar act shall be dealt with more severely. (A.M. No. 12-8-59-MCTC, April 12, 2016)

UTILITY WORKERS

- **Dishonesty; Grave misconduct.**

The respondent, during the informal investigations conducted by the Executive Judge, admitted that he took the 9mm caliber firearm, which was an exhibit in a criminal case, from the former COC of Branch 172 and, instead of placing it inside the exhibit room as instructed, placed it inside his bag. This is an admission of theft of court exhibit for which respondent should be held administratively liable. It is immaterial that he did not bring the gun outside of the Hall of Justice; the theft of the 9mm calibre firearm was already consummated when he placed it inside his bag.

Respondent's subsequent claim in his "*salaysay*" dated September 25, 2013 that he was just framed-up by the police officers is but a futile attempt to evade responsibility for his indiscretion. Indeed, at no point during the informal investigations conducted by Executive Judge did he ever deny that he took the said 9mm caliber firearm and placed it inside his bag. He merely claimed that he needed the firearm since his co-employee challenged him to a gun fight. Respondent's flimsy justification for his actions shows an utter lack of respect for the office he holds. In any case, frame-up is a defense that has been invariably viewed by the Court with disfavor as it can be easily concocted.

Respondent's misconduct in the performance of his official duties, consisting of dishonesty and conduct prejudicial to the best interest of the service, are grounds for dismissal under the Civil Service Law.

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For dishonesty and grave misconduct, respondent was ordered **DISMISSED** from the service with forfeiture of all benefits excluding leave credits, if any, with prejudice to re-employment in any branch or agency of the government, including government-owned and controlled corporations. **(A.M. No. P-16-3436 [Formerly A.M. No. 13-12-261-RTC], April 5, 2016)**

- **Dishonesty**

It is without doubt that respondent is guilty of dishonesty. He made a categorical admission that he withdrew the amount of P60,000 from the trial court's bank account because he was hard pressed for money. His admission was confirmed by the Clerk of Court that there was an unauthorized withdrawal from the trial court's funds, as well as, by the documents from the bank proving that such withdrawal was indeed effected. It is hornbook doctrine that a judicial admission binds the person who makes the same, and absent any showing that this was made thru palpable mistake, no amount of rationalization can offset it. Respondent's act of surreptitiously withdrawing P60,000 from the trial court's bank account without any stamp of authority constitutes dishonesty, which is defined as follows:

[T]he disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.

This Court will not tolerate dishonesty. Persons involved in the dispensation of justice, from the highest official to the lowest employee, must live up to the strictest standards of integrity, probity, uprightness and diligence in the public service. As the assumption of public office is impressed with paramount public interest, which requires the highest standards of ethical standards, persons aspiring for public office must observe honesty, candor and faithful compliance with the law. It has been consistently stressed that even minor employees mirror the image of the courts they serve; thus, they are required to preserve the judiciary's good name and standing as a true temple of justice.

Dishonesty is a serious offense which reflects a person's character and exposes the moral decay which virtually destroys his honor, virtue and integrity. It is a malevolent act that has no place in the judiciary, as no other office in the government service exacts a greater demand for moral righteousness from an employee than a position in the judiciary.

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For dishonesty, respondent was **DISMISSED** from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to re-employment in any branch, agency or instrumentality of the government including government-owned or controlled corporations. **(A.M. No. P-16-3447 [formerly: OCA I.P.I. No. 08-2915-P], April 19, 2016)**

SHERIFFS

- **Simple misconduct**

Under 2.2.4 of Chapter VI, Volume I of the 2002 Revised Manual for Clerks of Court—which defines the general functions of all court personnel in the judiciary—the Sheriff IV is tasked with serving writs and processes of the court; keeping custody of attached properties; maintaining the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and performing such other duties as may be assigned by the Executive Judge, Presiding Judge and/or Branch Clerk of Court. Under 2.1.5 of the same Chapter, the Deputy Sheriffs IV, V and VI are similarly tasked to serve writs and processes of the court; to keep custody of attached properties; to maintain the record book on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes; and to do related tasks and perform other duties that may be assigned by the Executive Judge and Clerk of Court.

It bears emphasis that while the sheriff may perform other tasks and duties assigned by the said Judges or Clerks of Court, the same should be “related” thereto, *i.e.*, (1) within the scope of his job description, or (2) identical with or subsumed under his present functions.

As aptly noted by the Investigating Judge, respondent's act of entertaining the voluntary surrender of an accused in a criminal case for purposes of posting cash bail bond is neither expressly stated nor can be necessarily implied from the job description of a court sheriff. Such act is beyond the scope of his assigned job description, and is hardly identical with or is subsumed under his present duties and functions, as defined in the 2002 Revised Manual for Clerks of Court.

To justify his act of certifying the voluntary surrender of the accused for the purpose of availing of his right to bail, respondent tries to make much of the Orders of other Judges in the RTC of Tacloban City in different criminal cases. However, while the said orders authorized him to release the concerned accused in the criminal cases after having posted sufficient bail bonds, nowhere can it be inferred therein that he was also authorized to accept the voluntary surrender of the accused. Contrary to his claim, there is no evidence on record to prove that Judges in other Branches of the said RTC had requested sheriffs in the Clerk of Court to issue a certificate of voluntary surrender, in the absence of their Branch Sheriffs. Neither can he invoke that it was a common practice inherited from his predecessors for a sheriff to entertain voluntary surrender of an accused without authority from the judge or clerk of court, for it is basic that ignorance of the law excuses no one from compliance therewith and that laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

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Finding respondent guilty of simple misconduct, and considering that respondent has filed an application for optional retirement, the Court imposed a fine of Five Thousand Pesos (P5,000) to be deducted from his retirement benefits. **(A.M. No. P-16-3437 [formerly OCA I.P.I. No. 11-3665-P], April 20, 2016)**