



Supreme Court of the Philippines
Philippine Judicial Academy



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FROM THE EDITOR

The mission of a good judicial training institution - the mandate of the Philippine Judicial Academy - is to make judges independent, competent, effective and efficient. The programs and seminars for judges and court personnel took care of the formal part of training. PHILJA Chancellor Justice Ameurfina A. Melencio Herrera was later concerned on how court decisions and policies enunciated by the Supreme Court issuances, like circulars and memoranda affecting the performance of functions, duties and responsibilities of judges and court personnel could be promptly accessed inexpensively. And so, the FAX Electronic ALERTS was born. Court rulings culled from the advance copies of Supreme Court decisions and the latest rules and circulars/memoranda issued by the Supreme Court *en banc*, the Chief Justice and Court Administrator were readily made available to lower courts and personnel soon after they were promulgated and issued through electronic fax transmission to update and guide them in the exercise of their duties.

Since then, FAX ALERTS had served its purpose. We are told that judges in far away stations look forward to the 7th day of the month, at the least, when FAX ALERTS monthly issue would be released to be informed of legal developments. By special request, the Integrated Bar of the Philippines, is a new subscriber to the FAX ALERTS.

Judges: Violation of Rule 2.04 Canon 2 of the Code of Judicial Conduct

It is imperative that we call the attention of both complainant and respondent judge regarding their unbecoming conduct. It is very apparent that the rift between them transcended the professional level to a personal one. Worse, their fight was picked up by the local media and for a while they were an item in the local newspapers. This is very unfortunate for it puts the judiciary in a bad light. Certainly, when judges of the same court in the same place fight, the image of the judiciary is impaired rather than enhanced. Their positions as judges demand utmost caution and circumspection to avoid poor public impression on the judiciary.

Magistracy is after all about *character*. It is incumbent upon them to so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Being the dispensers of justice, judges should not act in a way that would cast suspicion in order to preserve faith in the administration of justice. They should avoid impropriety and the appearance of impropriety in all activities.

Respondent judges were admonished for their unbecoming conduct as dispensers of justice with stern warning that a repetition of the same shall be dealt with more severely. **(AM No. MTJ-00-1337, April 27, 2004)**

Judges: Ignorance of basic procedures

Rule 9, Section 3 (a) of the 1997 Rules of Civil Procedure provides that:

"(a) *Effect of order of default* - A party in default shall be entitled to notice of subsequent proceedings but shall not take part in the trial."

Respondent's failure to comply with the elementary dictates of procedural rules constitutes a violation of the Code of Judicial Conduct. The code is explicit in its mandate that:

A judge shall be faithful to the law and maintain professional competence.

Competence is a mark of a good judge. Having accepted the exalted position of a judge, whereby he judges his own fellowmen, the judge owes it to the public who depend on him, and to the dignity of the court he sits in, to be proficient in the law.

Judges are duty bound to be faithful to the law and to maintain professional competence at all times. Their role in the administration of justice requires a continuous study of the law, lest public confidence in the judiciary be eroded by incompetence and irresponsible conduct.

Respondent judge violated Rule 3.01 of the Code of Judicial Conduct and is fined P5,000.00 and warned that repetition of similar acts will be dealt with more severely. **(AM No. MTJ-04-1539, April 14, 2004)**

Judges; Serious impropriety

The act of a judge in citing a person in contempt of court in a manner which smacks of retaliation is appalling and violative of Rule 2.01 of the Code of Judicial Conduct which mandates that a judge should so behave at all times to promote public confidence in the integrity and impartiality of the judiciary. The very delicate function of administering justice demands that a judge should conduct himself at all times in a manner which would reasonably merit the respect and confidence of the people for he is the visible representation of the law.

Respondent judge should have refrained from ordering the arrest and detention of the complainant since the incident involved his own son and the matter was very personal to him. The fact that respondent insisted that the complainant personally file his comment in court gives rise to doubt as to the motive behind it. The requirement of personal filing was deliberately inserted so that the respondent could confront and harass the complainant.

The Court took judicial notice that respondent was previously sanctioned for serious impropriety for delivering fistic blows on a complainant judge. In view thereof, respondent was dismissed from the service. **(AM No. RTJ-03-1771, May 27, 2004)**

Judges; Failure to interpret the law or to appreciate evidence

A judge's failure to interpret the law or to properly appreciate the evidence presented does not necessarily render him administratively liable. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of administering justice can be infallible in his judgment.

It must be stressed that an administrative complaint against a judge cannot be pursued simultaneously with the judicial remedies accorded to parties aggrieved by his erroneous order or judgment

Case against respondent was dismissed. **(AM No. MTJ-04-1551, May 21, 2004)**

Judges; Violation of Supreme Court Circular No. 20-95 on TRO and Preliminary Injunctions

Every member of the judiciary is required to observe due care, diligence, prudence, circumspection which the law requires in rendering public service as much as they are charged with the knowledge of internal rules and procedure.

The records clearly show that respondent violated SC Circular No. 20-95 now incorporated in paragraph 2, Section 5, Rule 58 of the Revised Rules of Court in granting the injunctive relief. The Circular requires that raffling be conducted only after notice to the adverse party and in the presence of such party or counsel. He could not deny responsibility on the matter by contending that it was not incumbent upon him as vice-executive judge to ensure such requirements were complied with, considering that this duty pertained to the executive judge. Such reasoning is disingenuous. Respondent was fined P15,000 and sternly warned. **(AM No. RTJ-03-1768, May 24, 2004)**

Judges; Supervision of court personnel

It is the duty of judges to see to it that clerks and other court personnel faithfully perform the functions assigned to them.

Being the executive judge, respondent failed in this respect. She should have had first hand information on the cases raffled to her sala. Granting that the expediente of the civil case was in fact misplaced, she could have discovered the matter had she conducted the docket inventory pursuant to Administrative Circular No. 10-95 dated June 29, 1994 and reiterated under Admin. Circular No. 1, requiring all trial judges to conduct a physical inventory of cases at the time of their assumption of office and every semester thereafter on the 30th of June and 31st of December. To ensure compliance, A.C. No. 10-94 authorizes trial judges to devote one week of each semester for the audit and inventory during which period trials need not be scheduled.

Respondent was fined P5,000. **(AM No. RTJ-02-1686, May 7, 2004)**

Judges; Disregard of procedural rules in the grant of bail; gross misconduct

A judge must comport himself at all times in such manner that his conduct, official or otherwise can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.

Although respondent judge denied that he fixed the accused's bail without prior conformity of the fiscal, the records disclosed otherwise as said conformity was not noted in the Order of Release he issued nor was the amount of bail stated therein. By these acts, respondent disregarded the procedural rules in the grant of bail to an accused and committed gross misconduct and conduct prejudicial to the proper administration of justice.

Respondent was fined P10,000.00. **(AM No. MTJ-98-1148, February 5, 2004)**

Judges; Failure to decide case under the rules on summary procedure

Section 11 of Rule 70 of the Rules of Court provides a period of 30 days for the court to render judgment in forcible entry and unlawful detainer cases. This period shall be counted from the receipt of the affidavits and position papers, or the expiration of the period for filing the same; not from the issuance of the order by the judge declaring the case submitted for resolution. The reckoning point is fixed by law not by the judge. A judge cannot by himself choose to prolong the period for deciding cases beyond that authorized by the law.

For rendering judgment beyond the mandated period, respondent judge is guilty of delay and, thus, administratively liable. He was fined P5,000.00. **(AM No. MTJ-04-1535, March 12, 2004)**

Clerk of Court; Failure to transmit records of appealed cases to appellate court

The failure of a clerk of court to transmit the records to the appellate court constitutes negligence and warrants disciplinary action. The prompt and orderly transmittal of the records of appealed cases is among the duties of the clerk/branch clerk of court. The reason for the rule requiring prompt transmittal of the records of appealed cases to the appellate court is to ensure the speedy disposition of the case. Otherwise the speedy administration of justice would be hampered.

For failure to promptly transmit the records of an appealed case, respondent branch clerk of court was fined P1,000.00. **(AM No RTJ-04-1838, March 18, 2004)**

Clerks of Court; Failure to deposit check

Circular No. 32-93 refers to collection of legal fees and submission of monthly report of collections.

It is clear from the foregoing circular that the Clerk of Court is mandated to immediately deposit with the depository bank all collections from bailbonds, rental deposits and other fiduciary collections. The subject check is not a fiduciary collection *per se*. It is a check sought to be deposited by the plaintiff as consignation in accordance with law, the propriety of which is yet to be determined. Respondent exercised prudence in conferring with the presiding judge whether to deposit the check or not and correctly heeded the advice of the latter not to deposit the said check immediately for he believed that the decision to deposit check was "interwoven with the exercise of judicial function". Moreover, complainants had converted the same into documentary evidence when they had the check marked as their exhibit during the pre-trial stage.

Considering that just like the presiding judge, there is no showing that respondent's failure to deposit immediately the subject check was prompted by bad faith, malice, corrupt motive or improper consideration, respondent should be exonerated from any administrative liability. The administrative complaint against respondent clerk of court was dismissed. **(AM No. P-04-1794, April 14, 2004)**

Sheriff; Enforcement of a writ of attachment against personal property

In enforcing a writ of attachment, a sheriff who takes personal property capable of manual delivery shall safely keep it in custody after issuing the corresponding receipt therefor. To constitute a valid levy of attachment, the sheriff must have actual possession of the property attached. He must put himself in a position to, and must assert and in fact, enforce a dominion over the property adverse to and exclusive of the attachment debtor. The sheriff cannot even deliver the property to the attachment creditor as the parties must await the judgment in the action. The levied property must be in the substantial presence and possession of the levying officer, who cannot act as special deputy sheriff of any party-litigant. The officer may put someone in possession of the property for the purpose of guarding it but the former cannot be relieved from liability to the parties interested in said attachment.

The charge against respondent sheriff has basis. He blatantly violated Section 7 (b) of Rule 57 of the Rules of Court when he deposited the attached machine in the warehouse of the plaintiff. For simple neglect of duty, respondent sheriff was suspended for one month and one day without pay. **(AM No. MTJ-04-1518, January 15, 2004)**

Sheriff; Failure to serve summons

The sheriff is the frontline representative of the justice system in this country. His failure to do his duty erodes the faith and trust of the public in the ability of the courts to settle disputes and to safeguard their rights.

Respondent failed to observe the degree of dedication to the duties and responsibilities required of him when he failed to serve summons upon the respondent in a civil case. He was suspended for three months without pay. **(AM No. P-04-1790, March 23, 2004)**

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