



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 09-08
August 2009

Amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65

As a rule, an amendment by the deletion of certain words or phrases indicates an intention to change its meaning. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.

If the Court intended to retain the authority of the proper courts to grant extensions under Section 4 of Rule 65, the paragraph providing for such authority would have been preserved. The removal of the said paragraph under the amendment by A.M. No. 07-7-12-SC of Section 4, Rule 65 simply meant that there can no longer be any extension of the 60-day period within which to file a petition for certiorari.

The rationale for the amendments under A.M. No. 07-7-12-SC is essentially to prevent the use (or abuse) of the petition for certiorari under Rule 65 to delay a case or even defeat the ends of justice. Deleting the paragraph allowing extensions to file petition on compelling grounds did away with the filing of such motions. As the Rule now stands, petitions for certiorari must be filed **strictly within 60 days** from notice of judgment or from the order denying a motion for reconsideration.

In granting the private respondent's motion for extension of time to file petition for certiorari, the Court of Appeals disregarded A.M. No. 07-7-12-SC. The action amounted to a modification, if not outright reversal, by the Court of Appeals of A.M. No. 07-7-12-SC. In so doing, the Court of Appeals arrogated to itself a power it did not possess, a power that only this Court may exercise. For this reason, the challenge resolutions dated August 7, 2008 and October 22, 2008 were invalid as they were rendered by the Court Appeals in excess of its jurisdiction. **(G.R. No. 185220, July 17, 2009)**

Judges: Violation of paragraph 7, Section 8, Rule 140 of the Rules of court (borrowing money from a lawyer in a case pending before her court)

Under Section 8 of Rule 140 of the Rules of Court, it is a serious charge to borrow money or property from lawyers and litigants in a case pending before the court. Under the same provision, an act that violates the Code of Judicial conduct constitutes gross misconduct which is also a serious charge.

Particularly, Rule 5.02, Canon 5 of the Code of Judicial Conduct mandates that a judge shall refrain from financial and business dealings that tend to reflect adversely on the court's impartiality, interfere with the proper performance of judicial activities, or increase involvement with lawyers or persons likely to come before the court. Moreover, under Rule 5.04 of Canon 5, a judge may obtain a loan if no law prohibits such loan. However, the law prohibits a judge from engaging in financial transaction with a party-litigant.

Respondent judge admitted borrowing money from complainant during the pendency of the latter's case which act is patently inappropriate. The impression that respondent would rule in favor of complainant because the former is indebted to the latter is what the Supreme Court seeks to avoid because a judge's conduct should always be beyond reproach.

After considering the previous offenses of respondent judge as aggravating circumstances, the Supreme Court imposed upon her the extreme penalty of dismissal from the service for violation of paragraph 7, Section 8, Rule 140 of the Rules of Court (borrowing money from a lawyer in a case pending before her court) which is also a gross misconduct under the Code of Judicial Conduct, with forfeiture of all retirement benefits, except the money value of her accrued leave credits, with prejudice to re-employment in the government service. **(A.M. No. RTJ-09-2183, July 7, 2009)**

Judges: Failure to decide case within the reglementary period

Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of Article III, Section 16 of the Constitution which provides that "all persons shall have the right to speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

The honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved. Thus, judges must perform their official duties with utmost diligence if public confidence in the judiciary is to be preserved. There is no excuse for mediocrity in the performance of judicial functions. The position of judge exacts nothing less than faithful observance of the law and the Constitution in the discharge of official duties.

Respondent judge's explanation that the undecided cases were never brought to his attention by his personnel deserves scant consideration. Proper and efficient court management is the responsibility of the judge and he is the one directly responsible for the proper discharge of his official functions. The responsibility of making a physical inventory of cases primarily rests on the presiding judge. He cannot take refuge behind the inefficiency or mismanagement of his personnel since proper and efficient court management is his responsibility.

For failure to decide cases within the reglementary period, respondent judge was meted a fine of P10,500.00 and sternly warned that a repetition of the same or similar acts will be dealt with more severely. (A.M. No. 02-8-2007-MTCC, July 27, 2009)

Judge: Violation of Rule 2.03 of the Code of Judicial Conduct

Rule 2.03 of the Code of Judicial Conduct provides that a judge shall not allow family, social, or other relationships to influence judicial conduct or judgment. The prestige of judicial office shall not be used or bent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.

Respondent judge by using his position help private persons settle a legal dispute violated said Rule 2.03 of the Code of Judicial Conduct.

The Supreme Court in the case of *Miranda vs. Judge Mangrobang*, A.M. No. RTJ-01-1665, November 29, 2001, 371 SCRA 20, 25, held that a judge's private life cannot be dissociated from his private life and it is, thus, important that his behavior both on and off the bench be free from any appearance of impropriety. Also, in the case of *Marcos, Sr., vs. Arcangel*, 328 Phil.1 (1996), the Supreme Court reprimanded the respondent judge therein for attending barangay conciliation proceedings at the request of one of the parties, and for introducing himself as an Executive Judge.

For violation of Rule 2.03 of the Code of Judicial Conduct, respondent judge was fined P5,000.00 with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. (A.M. No. RTJ-08-2158, July 30, 2009)

Judges: Undue delay in rendering decision

Judges ought to know which cases are submitted for decision. They should keep their own record of cases so that they may act on them promptly.

No less than the Constitution mandates that all cases or matters must be decided or resolved within twenty-four months from date of submission to the Supreme Court, and, unless reduced by the Supreme Court; twelve months for all lower collegiate courts, and three months for all lower courts.

The report of the audit team of the Office of the Court Administrator disclosed that of the twenty three (23) cases submitted for decision, 22 remained undecided despite the lapse of the reglementary period while seven (7) cases with pending incidents were still awaiting resolution by the respondent judge.

For failure to decide cases within the reglementary period, respondent judge was fined P20,000.00 to be deducted from the P100,000.00 ordered held from his retirement benefits. (A.M. No. 08-3-73-MeTC, July 31, 2009)

Clerk of Court: Leaving the country without travel authority

OCA Circular No. 6-2003 dated January 9, 2003 provides that judges and court personnel who intend to travel abroad must observe the following guidelines:

“VI. Leave to be spent Abroad.

All foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions pursuant to the Resolution in A.M. No 99-12-08-SC (Memorandum Order No. 14-2000 dated 6 November 2000). In line with the policy, the judge or court personnel concerned must submit the following:

x x x

For Court Personnel:

- a. application or request addressed to the Court Administrator, stating therein the purpose of the travel abroad;
- b. application for leave covering the period of the travel abroad duly recommended by the Executive Judge/Presiding Judge;
- c. Clearance as to money and property accountability;
- d. Clearance as to pending criminal and administrative case filed against him/her, if any; and
- e. For court stenographer, clearance as to pending stenographic notes for transcription from his/her court and from the Court of Appeals.

OCA Circular No. 49-2003 also states:

B. Vacation Leave to be Spent Abroad

Pursuant to the resolution in A. M. No. 99-12-08-SC dated 6 November 2000, all foreign travels of judges and court personnel, regardless of the number of days, must be with prior permission from the Supreme Court through the Chief Justice and the Chairmen of the Divisions.

1. Judges and court personnel who wish to travel abroad must secure a travel authority from the Office of the Court Administrator. x x x x”

For leaving the county without the requisite travel authority, respondent clerk of court was suspended from the service for one (1) year without pay with a warning that a repetition of the same or similar acts shall be dealt with more severely. (A.M. No. P-06-2217, July 30, 2009)

Philippine Judicial Academy

Chancellor

Adolfo S. Azcuna

Founding Chancellor Emeritus

Ameurfina A. Melencio Herrera

Head, Research, Publication and Linkages Office (RPLO)

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

Staff

Nennette G. Zaldivar

Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621
E-mail address: research_philja@yahoo.com. For link to e-library: www.supremecourt.gov.ph.

If you have any Fax No. or E-mail address, please let us know so we could send the “Alerts” direct to you.