



# PHILJA E-Alerts

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## JUDICIARY OFFICIALS AND EMPLOYEES

- **Appointment of Judiciary officials and employees**

Any ambiguity or vagueness in the delegation of powers must be resolved in favor of non-delegation. To do otherwise is to permit an abdication of the “duty to be performed by the delegate through the instrumentality of his own judgment and not through the intervening mind of another.” This is demonstrated by the requirement for a valid delegation of legislative power that both the completeness and sufficient standard tests must be passed.

Here, the delegation of the power of appointment by this Court to the Chairpersons of the Divisions in A.M. No. 99-12-08-SC (Revised), while seemingly broad as to encompass all appointments of personnel in the judiciary, is contradicted by this Court’s Resolutions and practices, both prior to and following its adoption. Several third-level positions within the Judiciary, such as the Court Administrator, Deputy Court Administrators, and Assistant Court Administrators, as well as third-level PHILJA officials, continue to be appointed by the Court *En Banc*, and not by the Chairpersons of the Divisions.

The extent of the delegation of the appointive power to the Chairpersons of the Divisions should be determined by the Court *En Banc* because of the contradictions between the text of A.M. No. 99-12-08-SC (Revised) and this Court’s own practices. Its resolution should not be left to the discretion of those to whom the power has been delegated, including the Chief Justice and the Chairpersons of the Divisions. At the very least, the Court *En Banc* should be given the opportunity to correct or resolve the ambiguity in A.M. No. 99-12-08-SC (Revised).

To ensure consistency in the extent of the delegation of the appointing power, all positions with salary grades 29 and higher, and those with judicial rank, in this Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, the Lower Courts including the Sharia’h courts, PHILJA, and the Judicial and Bar Council, shall be filled only by the Court *En Banc*, subject to any other requirement in law or Court Resolution. This shall be without prejudice to any exceptions or qualifications that may hereafter be made by the Court *En Banc* for the delegation of its appointing power to the Chairpersons of the Divisions. **[A.M. No. 17-07-05-SC, July 3, 2018]**

## JUSTICES

- **Violations of Code of Professional Responsibility and Code of Judicial Conduct**

Time and again, this Court has emphasized the high sense of morality, honesty, and fair dealing expected *and* required of members of the Bar. Lawyers must conduct themselves with great propriety, and their behavior must be beyond reproach anywhere and at all times, whether they are dealing with their clients or the public at large. Lawyers may be disciplined for acts committed even in their private capacity for acts which tend to bring reproach on the legal profession or to injure it in the favorable opinion of the public. There can be no distinction as to whether the transgression is committed in lawyers’ private lives or in their professional capacity, for a lawyer may not divide his personality as an attorney at one time and a mere

citizen at another. As eloquently put by the Court in one case: “Any departure from the path which a lawyer must follow as demanded by the virtues of his profession shall not be tolerated by this Court as the disciplining authority for there is perhaps no profession after that of the sacred ministry in which a high-toned morality is more imperative than that of law.”

For the same reasons, judges or justices are held to a higher standard for they should be the embodiment of competence, integrity, and independence, hence, their conduct should be above reproach.

The Court is, thus, reluctant to accept respondent’s position that she should be treated as an ordinary litigant in judging her actions. The fact that respondent was not the judge nor the counsel but a litigant in the subject case does not strip her off of her membership in the Bar, as well as her being a Member and the head of the highest court of the land at that time. Her being a litigant does not mean that she was free to conduct herself in less honorable manner than that expected of a lawyer or a judge.

Consequently, any errant behavior on the part of a lawyer and/or a judge, be it in their public or private activities, which tends to show said lawyer/judge deficient in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment. x x x

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In the case at hand, as can be clearly seen from respondent’s aforementioned statements, respondent unquestionably directed her statements to the merits of the *quo warranto* case, to influence the public and the Members of the Court, and to attack the dignity and authority of the institution. Perhaps, to an unwilling mind, it may be argued that the public statements expressed by respondent were without the intention of prejudging the matters or issues that are before the Court. However, a scrutiny thereof clearly demonstrates that her statements went beyond the supposed arguments and contentions contained in her pleadings. To cite an example, respondent never alleged or argued in her pleadings nor during the Oral Argument, as she knows the ethical issues that would entail if she did, that the grant of the *quo warranto* petition would result into dictatorship and would destroy the judiciary, but she did during one of her public speeches as cited above.

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At this point, this Court leaves an essential reminder to members of the Bar and the Bench alike: all lawyers should take heed that they are licensed officers of the courts who are mandated to maintain the dignity of the legal profession and the integrity of the judicial institution to which they owe fidelity according to the oath they have taken, hence, they must conduct themselves honorably and fairly in all circumstances. It is one thing to show courage and another to display arrogance; it is one thing to demonstrate passion and another to exude heedless overzealousness. To be clear, this Court is not undermining the right of lawyers, as officers of the court and as citizens, to criticize the acts of courts and judges, as well as discuss issues of transcendental importance. However, they should be circumspect of their actions and statements, thus such criticisms and discussions should only be done in a proper and legally-accepted manner. The use of unnecessary language and means is proscribed if we are to promote high esteem in the courts and trust in judicial administration.

All told, as shown by the above circumstances, respondent’s reckless behavior of imputing ill motives and malice to the Court’s process is plainly evident in the present case. Her public statements covered by different media organizations incontrovertibly brings the Court in a position of disrepute and disrespect, a patent transgression of the very ethics that members of the Bar are sworn to uphold. This, the Court cannot countenance.

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The Court found respondent guilty of violating Canon 13, Rule 13.02, and Canon 11 of the Code of Professional Responsibility, Sections 3, 7, and 8 of Canon 1, Sections 1 and 2 of Canon 2, Sections 2 and 4 of Canon 3, and Sections 2 and 6 of Canon 4 of the New Code of Judicial Conduct for the Philippine Judiciary. In lieu of suspension, however, respondent was meted the penalty of reprimand with a stern warning that a repetition of a similar offense or any offense violative of the Lawyer's Oath and the Code of Professional Responsibility shall merit a heavier penalty of a fine and/or suspension or disbarment. **[A.M. No. 18-06-01-SC, July 17, 2018]**

## JUDGES

- **Conduct Unbecoming a Judge**

Section 3, Canon 5 of the New Code of Judicial Conduct mandates all judges to carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties. They are likewise commanded to maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judge deals in an official capacity. Besides having the requisite learning in the law, they must exhibit that hallmark judicial temperament of utmost sobriety and self-restraint.

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Indeed, the image of a court of justice is mirrored in the conduct of the personnel who work thereat, from the judge to the lowest of its personnel. Every employee of the court should be an exemplar of integrity, uprightness and honesty. Thus, any act which diminishes or tends to diminish the faith of the people in the judiciary should not be tolerated.

The Court notes that this is not the first time that respondent judge was administratively charged with discourtesy. In a previous case, respondent judge was reprimanded and warned to be courteous not only to the lawyers but also to the litigants and witnesses appearing before his *sala*. The Court reminded him that “[j]udges are strictly mandated to abide by the law, the Code of Judicial Conduct and existing administrative policies in order to maintain the faith of our people in the administration of justice. Any act which falls short of the exacting standard for public office, especially on the part of those expected to preserve the image of the judiciary, shall not be countenanced.

Despite such warning, respondent did not reform. He again demonstrated his impatience, discourtesy and lack of prudence. Certainly, a judge can hold counsels to a proper appreciation of their duties to the court, their clients, and the public without being petty, arbitrary, overbearing, or tyrannical. He should refrain from conduct that demeans his office and remember always that courtesy begets courtesy.

Respondent is guilty of conduct unbecoming a judge for violating Section 3, Canon 5 and Section 6, Canon 6 of the New Code of Judicial Conduct, classified as a light offense under Section 10, Rule 140 of the Rules of Court. He was penalized with a fine amounting to P40,000. **[A.M. No. RTJ-18-2519 (Formerly A.M. No. 06-10-605-RTC), June 13, 2018]**

- **Gross Ignorance of the Law**

In this particular instance, the charge of gross ignorance of the law against respondent judge can readily be determined based on the pleadings, his Orders dated September 28, 2012 and

November 23, 2012, and the Court of Appeals' Decision dated January 21, 2016 nullifying said orders.

In his misplaced desire to protect the right of the accused to speedy trial, respondent judge ended up depriving the prosecution and no less than the People of the Philippines the opportunity to prosecute an offense as menacing as a violation of the Comprehensive Dangerous Drugs Act of 2002. Essentially, the palpable haste in which he dismissed the subject criminal cases denied the State of its duty to prosecute public crimes such as illegal drug cases and to rid society of the evil brought by the illegal drug trade. The cavalier stance taken by respondent judge in dismissing the subject cases is obvious in his Order dated September 28, 2012. He did not apply the stringent elements set forth by the Court for the dismissal of a criminal case based on the denial of the accused's right to speedy trial and disposition of the cases involving them. He simply relied on the assertion of the defense counsel that there was delay in the proceedings of the cases without even ascertaining the cause of the delay. The prosecution was not also afforded the opportunity to prove that the delay, if indeed there was any, was not deliberately done to hamper or prejudice the rights of the accused; or that the right of the State to try the latter, despite such delay, must be sustained. Had respondent judge been true to his mandate of observing competence and diligence in handling cases, he would have discovered with facility that the delay was not solely the fault of the prosecution.

Indeed, respondent judge's erroneous interpretation of criminal law precepts as basic and fundamental as the constitutionally-mandated rights to speedy trial and due process cannot be countenanced. Even his misapplication of double jeopardy was rightfully rectified by the Court of Appeals in order to protect the State's right to defend the public from criminality as serious as the violation of the illegal drugs law.

The Court stresses in *Amante-Descallar v. Judge Ramas* (A.M. No. RTJ-08-2142, March 20, 2009) that the soundness of the dismissal of criminal cases lies within the judicial discretion of a judge and the erroneous exercise of which does not automatically render him liable. However, in the same case, the Court found the respondent judge therein guilty of gross ignorance of the law for violating the basic and fundamental constitutional principle of due process when he granted the motions filed by the accused in the criminal cases without giving the prosecution its day in court. Such action cannot be characterized as mere deficiency in prudence, or lapse of judgment but a blatant disregard of established rules. As is obtaining in the instant administrative complaint, respondent judge's blatant misinterpretation of the basic concepts of due process and the accused's right to speedy trial reeks of gross ignorance of the law. When a judge displays an utter lack of familiarity with the Rules of Criminal Procedure, he erodes the public confidence in the competence of our courts. Such is ignorance of the law.

Consequently, respondent judge, in the same dismissal order, also directed the custodian of the confiscated plastic sachets of "shabu" and the buy-bust money to bring these items to court for disposal, which was scheduled on October 5, 2012. The said directive was not in accordance with the rules laid down in Section 21 of Republic Act No. 9165.

Indeed, the Order dated September 28, 2012 of respondent judge directing the custodian of the confiscated suspected illegal drugs to bring the same to court for disposition is not sanctioned by RA No. 9165 and its implementing guidelines. It must be underscored that what respondent judge ordered to be destroyed were the suspected illegal drugs that were not yet presented in court as trial proper had not yet commenced. Now, the precipitate and unwarranted destruction thereof resulted in a situation where the prosecution was deprived of its vital evidence, the ultimate *corpus delicti*, to prove the guilt of the accused.

Ordinarily, to constitute gross ignorance of the law, the subject decision, order, or action of the judge in the performance of his official duties should not be only contrary to

existing law, rules, and jurisprudence, and most importantly, he must also be moved by bad faith, fraud, dishonesty or corruption. Nonetheless, while judges have in their favor the presumption of regularity and good faith in the performance of their judicial functions, a blatant disregard of the clear and unmistakable terms of the law obviates this presumption and renders them susceptible to administrative sanctions. Here, respondent judge violated simple, elementary and well-known rules, jurisprudence, and law that all magistrates, by the exalted position that they occupy in the judiciary, are presumed to know and apply accordingly.

Respondent judge was found guilty of gross ignorance of the law and imposed upon him a fine in the amount of P20,000 to be paid within 30 days from notice, with a stern warning that a repetition of the same or similar act shall be dealt with more severely. ***[A.M. No. RTJ-18-2529 (Formerly OCA I.P.I. No. 18-4827-RTJ), June 27, 2018]***