



# Supreme Court of the Philippines Philippine Judicial Academy



## *PHILJA Fax/Electronic Alerts*

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### **PHILJA conducts training for CA Mediators**

TO DEEPEN THE KNOWLEDGE and enhance the skills of mediators in Alternative Dispute Resolution (ADR), the Philippine Judicial Academy recently conducted a 3-day Orientation Workshop for New Court of Appeals Mediators. The participants were provided with a better understanding on the role of ADR in the total effort to address the grave problem of court docket congestion. It also aimed to restore the people's trust in the judiciary as an effective instrument to secure justice, empower disputants to resolve their own disputes, and persuade greater acceptance and use of ADR to resolve disputes.

The participants of the orientation workshop were briefed on how to apply Philippine culture and values in the actual mediation process. They attended lectures on the ethical standards of mediators as well as on techniques in identifying the types and nature of the conflicts in issue and formulating strategies on how best to facilitate successful mediation.

Mediation is a voluntary process in which the parties to a dispute engage the assistance of a neutral person, called the mediator, to facilitate negotiations between them to resolve their dispute privately in an amicable manner. The mechanisms of alternative dispute resolution involve mediation, mini trial, early neutral evaluation and arbitration. – Ivan M. Bandal (Quoted from Court News, Vol. 1 No. 11, November 2004)

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### **JUDGES: ACTS CONSIDERED AS IGNORANCE OF THE LAW**

1. Failure to apply the Rules on Summary Procedure in a forcible entry case. Respondent issued summons ordering defendant to answer within 15 days instead of 10 days. (A.M. MTJ-04-1534, September 7, 2004).
2. Observing and applying the old rule on preliminary investigation which consists of 2 stages – (1) preliminary examination and (2) preliminary investigation proper.

Under Rule 112, Section 3 of the Revised Rules of Criminal Procedure, there is now only one stage of preliminary investigation. The new rule is based on P.D. 911 which eliminated the first stage and integrated it into the preliminary investigation proper. (A.M. MTJ – 04-1521, July 27, 2004).

3. Acquitting the accused in a bigamy case on the ground of "good faith" of the accused in believing that the divorce decree obtained abroad is valid in the Philippines.

Failure to distinguished between a mistake of fact which could be a basis for the defense of good faith in a bigamy case, from a mistake of law, which does not excuse a person, even a lay person, from liability. (A.M. RTJ -02-1673, August 11, 2004).

4. Allowing the withdrawal of the supersedeas bond and rental deposits in an ejectment case pending appeal. The supersedeas bond and rental deposits should remain with the court as security for the accrued pecuniary liability of the defendant to the plaintiff.

They are primarily designed to ensure that the plaintiff would be paid back the rentals or compensation for the use and occupation of the premises should the lower court's decision in his favor be affirmed on appeal. (A.M. RTJ – 03-1708, September 7, 2004).

5. Receiving cash bonds and issuing personal receipts therefor in criminal cases filed before his court instead of requiring the accused to deposit the cash bonds with the nearest collector of internal revenue or provincial, city or municipal treasurer. (A.M. MTJ -02-1462, August 10, 2004).
6. Failure to transmit records of and resolution on cases after preliminary investigation to the provincial prosecutor as required by Section 5 of Rule 112 of the Revised Rules on Criminal Procedure. (A.M. MTJ-02-1462, August 10, 2004)

**Judges: knowingly rendering an unjust judgment**

Knowingly rendering an unjust judgment is a criminal offense defined and penalized under Article 204 of the Revised Penal Code. For conviction to lie it must be proved that the judgment is unjust and that the judge knows that it is unjust. Knowingly means consciously, intelligently, willfully or intentionally. For a judge to be held liable for knowingly rendering an unjust judgment, it must be shown that the judgment is unjust as it is contrary to law or is not supported by the evidence and that the same was made with conscious and deliberate intent to do an injustice.

In order to hold a judge liable, it must be shown that the judgment is unjust and that it was made with conscious and deliberate intent to do an injustice. Good faith is a defense to the charge. **(A.M. No. RTJ-02-1673, August 11, 2004)**

**Judges: Inclusion of special allowance under R.A. No. 9227 in the computation of retirement benefits**

A plain reading of Section 5 of RA 9227 shows that for purposes of retirement, only the allowances actually received and the tranche or tranches already received and implemented upon the date of retirement shall be included in the computation of the retirement benefits of the judge. **(A.M. No. RTJ-04-1868, August 13, 2004)**

**Justices: charges based on mere suspicion and speculation cannot be given credence**

In administrative proceeding, the complainant has the burden of proving by substantial evidence the allegations in his complaint. Charges based on mere suspicion and speculation cannot be given credence. Hence, when the complainant fails to substantiate a claim of corruption and bribery, relying merely on conjectures and suppositions, the complaint must be dismissed for lack of merit. **(A.M. No. CA-04-40, August 13, 2004)**

**Justices: grounds for the removal of a judicial officer should be established beyond reasonable doubt**

The ground for the removal of a judicial officer should be established beyond reasonable doubt. Such is the rule where the charges on which the removal is sought is misconduct in office, willful neglect, corruption or incompetence. The general rules with regard to admissibility of evidence in criminal trials apply. Weighed against such standards, complainant's evidence falls short. **(A.M. No. CAJ-04-41, September 22, 2004)**

**Judges: Gross ignorance of the law**

To warrant a finding of gross ignorance of the law, the error must be so gross and patent as to produce an inference of bad faith. **(A.M. No. RTJ-04-1856, September 30, 2004)**

**Judges: baseless charges against a judge must be dismissed**

The Court cannot give credence to charges based on mere suspicion and speculation. As champion – at other times tormentor – of trial and appellate judges, it must be unrelenting in weeding the judiciary of unscrupulous judges, but it must be also quick in dismissing administrative complaints which serve no other purpose than to harass them.

The absence of allegations of specific acts and/or omissions violated by the respondent is highly irregular and raises doubts as to the veracity of the charges made therein. **(A.M. No. RTJ-04-1880, October 1, 2004)**

**Judges: showing copies of draft decisions to parties and meeting party-litigants outside office premises constitute gross misconduct**

Like Caesar's wife, a judge must not only be pure but also above suspicion. Respondent's acts of sending a member of his staff to talk with complainant and show copies of his draft decisions, and his act of meeting with litigants outside the office premises beyond office hours violate the standard of judicial conduct required to be observed by members of the bench. **(A.M. No. MTJ-04-1564, September 8, 2004)**

**Judges: it is mandatory for an investigating judge to transmit to the provincial prosecutor his resolution and records of the case after preliminary investigation**

Under Section 5 of Rule 112 of the Revised Rules on Criminal Procedure, it is mandatory for the investigating judge to transmit to the provincial or City prosecutor the resolution dismissing or admitting the complaint together with the entire records of the case. **(A.M. No. MTJ-02-1462)**

**Judges: no authority to receive the deposit of cash bail**

Judges should not receive cash bonds because they are not so authorized. Rule 114 authorizes only the collector of internal revenue, provincial, city or municipal treasurer.

For his act of receiving the cash bond, respondent was guilty of simple misconduct. **(A.M. No. MTJ-03-1511, August 20, 2004)**

**Judges: gross ignorance of the law**

It was error for respondent to grant defendant's motion to withdraw the supersedeas bond and the rental deposits. He incorrectly believed that the bond and the rental do not guarantee the money judgment. His failure to comprehend the basic purpose of the bond and the rentals constitutes gross ignorance of the law. (A.M. No. RTJ-03-1798, September 7, 2004)

**Judges: appearing as counsel in a case**

The rule that a lawyer is presumed to be authorized to appear before a court applies only to lawyers, not judges.

The prohibition against a judge to appear in a case as counsel of one of the parties is based on public policy. It was then incumbent upon respondent judge to inquire from the judge-counsel whether the latter obtained authority from the Supreme Court to appear as counsel in his sala.

For allowing his fellow judge to appear as counsel without authority from the Supreme Court in his sala, respondent violated Canon 2, Rules 2.01 and 2.03. (A.M. No. RTJ-04-1860, September 8, 2004)

**Judges: discretion of judge to grant bail is not absolute nor without limitations**

The discretion of a judge to grant bail must be sound and exercised within reasonable bounds. Admission to bail as a matter of discretion presupposes the exercise thereof in accordance with law and guided by the applicable legal principles. The discretion may be rightly exercised only after the evidence is submitted to the court at the hearing and properly weighed. Since evidence cannot be properly weighed if not duly exhibited or produced before the court, it is obvious that a proper exercise of judicial discretion requires that the evidence be submitted to the court with the accused having the right to cross-examination and to introduce his own evidence in rebuttal. (A.M. No. MTJ-02-1457, August 11, 2004)

**Judges: trial court cannot motu proprio grant bail**

Although the Rules of Court authorizes the investigating judge to determine the amount of bail such authority does not include the outright granting of bail without a preliminary hearing on the matter. (A.M. No. MTJ-02-1457, August 11, 2004)

**Judges: transfer of court sessions must be authorized by the Supreme Court**

The unilateral and unauthorized act of the respondent and her court personnel of transferring the court sessions and the case records without prior authority from the Supreme Court is a clear violation of Administrative Order No. 33, dated June 13, 1978, as reiterated under Batas Pambansa Bldg. 129, as amended. (A.M. No. -02-6-142-MCTC, September 20, 2004)

**Judges; failure to apply the Revised Rules on Summary Procedure in forcible entry cases constitutes ignorance of the law**

All the complaints filed with the court of respondent clearly showed that they were for "forcible entry". These words appearing on the captions should have alerted him that the Rule on Summary Procedure should be applied, hence, should not have given the defendant 15 days to answer the complaint. (A.M. No. MTJ-04-1534, September 7, 2004)

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