



PHILJA E-Alerts

The PHILJA Electronic Alerts is published by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura Street corner Taft Avenue, Manila.

Tel. No: 02 5529524 Fax No: 02 5529621

E-mail address

philja@sc.judiciary.gov.ph
research_philja@yahoo.com

Website address

<http://philja.judiciary.gov.ph>

PHILIPPINE JUDICIAL ACADEMY

Justice Adolfo S. Azcuna
Chancellor

Dean Sedfrey M. Candelaria
*Head, Research, Publications
and Linkages Office*

Atty. Ma. Melissa R. Dimson-Bautista
Editor

Editorial, Research and Circulation
*Research, Publications
and Linkages Office*

Issue 17-12

December 2017

JUDGES

• Gross Ignorance of the Law

While the Court agrees with the OCA that respondent judge was careless in convicting AA in the nine checks subject of the BP Blg. 22 cases which were **not raffled to his sala**, it does not and cannot dismiss this act as simple inadvertence. Such carelessness can only be considered as **gross ignorance of the law**, as defined by this Court in *Re: Anonymous Letter dated August 12, 2010, Complaining Against Judge Ofelia T. Pinto, RTC, Branch 60, Angeles City, Pampanga*:

We have previously held that when a law or a rule is basic, judges owe it to their office to simply apply the law. ‘Anything less is gross ignorance of the law.’ **There is gross ignorance of the law when an error committed by the judge was ‘gross or patent, deliberate or malicious.’** It may also be committed when a judge ignores, contradicts or fails to apply settled law and jurisprudence because of bad faith, fraud, dishonesty or corruption. **Gross ignorance of the law or incompetence cannot be excused by a claim of good faith.**

In *Chua Keng Sin v. Mangente*, the Court found the judge guilty of gross ignorance of the law when he carelessly denied the Motion to Dismiss the case for Slight Physical Injuries filed against X by his brother, Y, despite the obvious lack of a Certificate to File Action from the *Lupon* of the barangay as required under the Local Government Code’s provisions on *Katarungang Pambarangay* and Section 18 of the 1991 Revised Rules on Summary Procedure. The Court did not consider the judge’s excuse of heavy caseload and his being a newly appointed judge, “considering the extent of his experience as public attorney for nine years and as prosecutor for 12 years” for his failure to observe such basic and elementary rules, thus:

Respondent was careless in disposing the Motions filed by complainant, in a criminal case no less. The Office of the Court Administrator correctly underscores that **his experience as a public attorney and prosecutor should have ingrained in him well-settled doctrines and basic tenets of law.** He cannot be relieved from the consequences of his actions simply because he was newly appointed and his case load was heavy. These circumstances are not unique to him. **His careless disposition of the motions is a reflection of his competency as a judge in discharging his official duties.**

Here, it is obvious that the subject criminal case in respondent judge’s sala **pertained to only one check**, that is, the subject Land Bank Check No. 0000251550. Had respondent been more circumspect in reviewing the records of the case, he could have easily noticed that glaring fact, as well as Judge BB’s prior order acquitting AA of the nine BP Blg. 22 cases raffled to MeTC XX, and promulgated a decision based only on that particular check. The fact that he had served more than 21 years in the judiciary meant that he should have known better than to haphazardly render a decision in a criminal case without regard to the specific allegations in the

offense charged and his jurisdiction, or lack thereof, to take cognizance of the case. This is gross ignorance of the law.

Respondent judge was fined in the amount of Thirty Thousand Pesos (P30,000) to be deducted from his retirement benefits. **[A.M. No. MTJ-16-1883 (Formerly OCA IPI No. 12-2497-MTJ), July 11, 2017]**

- **Gross Ignorance of the Law**

A protection order is issued to prevent further acts of violence against women and their children, their family or household members, and to grant other necessary reliefs. It is issued for the purpose of safeguarding the offended party from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life. A protection order may be issued *ex parte* if the court finds that there is danger of domestic violence to the offended party. This provisional protection order, however, may be issued only if the court finds that the life, limb or property of the offended party is in jeopardy and there is reasonable ground to believe that the order is necessary to protect the victim from the immediate and imminent danger of violence or to prevent such violence, which is about to recur. If after examining the verified petition and its accompanying affidavits the court is satisfied that there is, indeed, a reasonable ground to believe that an imminent danger of violence against the offended party exists or is about to recur, it may issue a TPO *ex parte*.

In the case at bar, a reading of the petition for child custody filed by CC would show that no specific allegation of violence or abuse, whether physical, emotional or psychological was committed or was about to be committed against DD. Not even the affidavits of witnesses attached to the petition supported his positions. The averments in the petition that complainant was suffering from personality disorder, that she subjected DD to psychological violence as she would always shout at the helpers, and that complainant always leave DD to the *yaya*, to name a few, are not sufficient bases to issue the TPO.

Moreover, a perusal of the Verification with Certification of Non-forum Shopping attached to the petition for child custody would reveal that a similar case for protection order and child custody, docketed as Civil Case No. XXXX-XXXX, was filed by complainant against CC before the RTC-VVV City. Considering that there was such a declaration, it behooves upon respondent judge to inquire first about the nature and the status of the said pending case before taking cognizance of the case and eventually issue the TPO.

In fact, the December 23, 2005 TPO was eventually annulled and set aside by the CA in its Decision dated September 15, 2006. In the same decision, Civil Case No. YYYY was likewise dismissed for lack of jurisdiction over the petition for protection order and child custody. The CA held that respondent judge gravely abused his discretion when he issued the December 23, 2005 TPO awarding the custody of parties' common child to CC. It ruled that since the RTC-VVV City had already taken cognizance of the petition for protection order and child custody, it exercises jurisdiction thereon to the exclusion of all other courts. Hence, the RTC-VVV City has exclusive jurisdiction over said petition and no other petition involving the same subject matter may be filed before any other court. The CA decision was affirmed by the Court in a Resolution dated June 20, 2007.

The Court has always reminded judges to be extra prudent and circumspect in the performance of their duties. This exalted position entails a lot of responsibilities, foremost of

which is proficiency in the law. Though not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, the same, nonetheless, applies only in cases within the parameters of tolerable misjudgement. Where the procedure is so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law. In the case of *Bautista v. Causapin Jr.*, the Court explained thus:

Where the law involved is simple and elementary, lack of conversance therewith constitutes gross ignorance of the law. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less. The mistake committed by respondent judge is not a mere error of judgment that can be brushed aside for being minor. The disregard of established rule of law which amounts to gross ignorance of the law makes a judge subject to disciplinary action.

Given the foregoing, respondent judge's actions cannot be considered a mere error in judgment that can be easily ignored. His act of issuing the questioned TPO is not a simple lapse of judgment but a blatant disregard of the basic rules on child custody and the rule on the issuance of a protection order. As held by the Court in a number of cases, a patent disregard of the basic legal commands embodied in the law and the rules constitutes gross ignorance of the law from which no one may be excused, not even a judge.

The Court found respondent judge guilty of gross ignorance of the law and imposed the penalty of forfeiture of all his retirement benefits except accrued leave credits, in lieu of dismissal from the service. **[A.M. No. RTJ-17-2508 (Formerly OCA IPI No. 06-2416-RTJ), November 7, 2017]**

- **Misconduct for Direct Bribery**

In his Comment, respondent judge denied having demanded any amount of money from EE and having taken the marked money, and even accused EE of attempting to bribe him. He alleged that he refused to accept the said envelope and simply left it at the table before walking away. In its Resolution dated June 20, 2005, this Court held in abeyance the administrative proceedings pending resolution of the criminal case against respondent judge.

Subsequently, the Sandiganbayan promulgated a Decision dated January 25, 2010, finding respondent judge guilty beyond reasonable doubt of Direct Bribery, finding that the series of circumstances established respondent judge's intent to extort money from EE and FF in exchange for a ruling in their favor x x x.

x x x x

The Court agrees with the OCA. It cannot emphasize enough how bribery, whether direct or indirect, can seriously affect the public's trust in every subdivision and agency of government, more so in the judiciary. As the branch of government responsible for interpreting laws and settling controversies brought to it by any person, it has the duty to observe fairness and neutrality in hearing the sides of all the parties to a case, and make a resolution thereon based solely on the merits of the evidence presented by the parties and the laws and jurisprudence applicable thereon.

As gleaned above, the evidence had fully established respondent judge's criminal intent to extort money from EE and FF from demanding P15,000 in exchange for a favorable decision,

to actually accepting the said amount when they met at Bon's Restaurant. Thus, respondent judge not only gravely violated his duty to dispense justice solely in accordance with the merits of the case, but also put the trust and confidence of the people in the judiciary and the rule of law into serious peril, hence rendering him utterly unfit to continue dispensing his duties as a public official and a member of the Bar.

As for the imposable penalty, the Court agrees with the OCA that respondent judge should be disbarred and the benefits he received as a judge be forfeited. It is important to stress anew that Direct Bribery is not only a serious charge which would merit the dismissal from the service of a judge and the forfeiture of his benefits, but also a crime involving moral turpitude which is a ground for the disbarment of a lawyer.

In this regard, it is relevant to note that the Court has, in the past, dismissed erring judges from the service and disbarred them in a single decision on the ground of conviction of a crime involving moral turpitude, and forfeited the benefits of other judges similarly situated, who had already retired prior to the resolution of the administrative matters against them, all in accordance with Section 27, Rule 138 of the Rules of Court in relation to A.M. No. 02-9-02-SC. In view of the seriousness of the offense, and considering that respondent judge had already reached the compulsory retirement age of 70 on August 16, 2013, the Court hereby imposed the forfeiture of benefits as a former judge, and likewise declared him perpetually disqualified from reinstatement or appointment to any public office or employment, including to one in any government-owned or government-controlled corporations. Moreover, respondent judge was disbarred pursuant to A.M. No. 02-9-02-SC, and his name is ordered stricken from the Roll of Attorneys effective immediately upon the date of receipt of the decision. ***[A.M. No. MTJ-05-1574 (Formerly A.M. No. 04-8-199-MTC), November 7, 2017]***

CLERKS OF COURT

- **Dishonesty; Grave Misconduct**

Clerks of court, being the custodians of court funds and revenues, records, properties, and premises, are liable for any loss, shortage, destruction or impairment of the funds or other assets entrusted to them. Their personal accountability is always enforceable. Specifically, any shortages in the amounts remitted and any delays incurred in the actual remittance of collections shall constitute gross neglect of duty for which the clerks of court concerned shall be held administratively liable.

Respondent clerk of court admitted his failure to remit his collections on time on account of his personal problems (that is, the killing of his son and the hospitalization of his daughter). Even if he did not categorically state having misappropriated or converted the funds for his personal benefit, he was still worthy of stern reprobation. Personal problems should never justify the incurring of shortages and the delay in remitting cash collections for the Judiciary. In this case, respondent clerk of court's administrative sin was aggravated by the fact that this charge was not his first offense. According to the personnel records of the Court, he had been previously reprimanded for his failure to observe SC Circular No. 50-95 by which he was bound to deposit fiduciary collections with the Land Bank of the Philippines within 24 hours from receipt thereof.

We note that in relation to the previous offense, respondent clerk of court and GG had been directed to deposit the amount of P15,290.95 representing the interest that the Court failed to earn because of the delay in depositing their collections. As such, even if he had meanwhile restituted the shortages of P98,652.81 subject of this charge, his belated remittance similarly deprived the Court of earnings in the form of interest that such amount would have earned if deposited in the bank as directed in SC Circular No. 50-95.

Relevant portions of Administrative Circular No. 3-2000, dated June 15, 2000, are quoted as follows:

- x x x x
- II. Procedural Guidelines
- A. Judiciary Development Fund
- x x x x
3. Systems and Procedures.
- x x x x
- c. In the RTC, MeTC, MTCC, MTC, MCTC, SDC and SCC. — **The daily collections for the Fund in these courts shall be deposited everyday with the nearest LBP branch for the account of the Judiciary Development Fund, Supreme Court, Manila – SAVINGS ACCOUNT NO. 0591-0116-34 or if depositing daily is not possible, deposits for the Fund shall be at the end of every month, provided, however, that whenever collections for the Fund reach P500, the same shall be deposited immediately even before the period above indicated.** (bold underscoring supplied for emphasis)
- x x x x

Administrative Circular No. 3-2000 clearly directed respondent clerk of court to immediately deposit all fiduciary collections upon receipt thereof in an authorized government depository bank. Respondent clerk of court's failure to promptly remit his fiduciary collections was in flagrant violation of the directive.

For the delay in the remittance of his cash collections, therefore, respondent clerk of court was guilty of dishonesty and grave misconduct, and is punished with dismissal pursuant to the *Revised Rules of Administrative Cases in the Civil Service with forfeiture of all retirement benefits (excluding earned leave credits)*, with prejudice to his re-employment in the Government, including government-owned and government-controlled corporations. **[A.M. No. P-05-1938, November 7, 2017]**