



# Supreme Court of the Philippines Philippine Judicial Academy



## *PHILJA Fax/Electronic Alerts*

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### **Judge: Unbecoming Conduct**

Judicial decorum requires judges to be temperate in their language at all times. They must refrain from inflammatory, excessively rhetoric or vile language. They should be dignified in demeanor and refined in speech; exhibit that temperament of utmost sobriety and self-restraint; and be considerate, courteous and civil to all persons who come to their courts.

Section 6, Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary states that judges shall be patient, dignified and courteous in relation to lawyers. Rule 3.04, Canon 3 of the Code of Judicial Conduct states that judges should be patient and courteous to lawyers especially the inexperienced. They should avoid the attitude that the litigants are made for the courts instead of the courts for the litigants.

In *Juan dela Cruz v. Carretas*, the Supreme Court held that a judge who is inconsiderate, discourteous or uncivil to lawyers who appear in his sala commits an impropriety and fails in his duty to reaffirm the people's faith in the Judiciary, x x x ; that it is reprehensible for a judge to humiliate a lawyer, x x x; that a judge must at all times be temperate in his language; x x x and that equanimity and judiciousness should be the constant marks of a dispenser of justice. A judge should always keep his passion guarded. He can never allow it to run loose and overcome his reason. He descends to the level of a sharp-tongued, ill-mannered petty tyrant when he utters harsh words. x x x

Respondent judge's refusal to consider the motion to quash the Writ of Replevin, repeated interruption of the lawyers and utterance of "shut up", "that's baloney" "how dare you say that the court is wrong", "what kind of a lawyer are you?", and "the problem with you people is you do not use your heads" are undignified and very unbecoming of a judge.

Together with his other offense of gross ignorance of the law for which he was found guilty as charged, respondent judge was dismissed from the service with forfeiture of all retirement benefits except accrued leave credits and with prejudice to re-instatement or appointment to any public office including GOCC. **(A.M. No. RTJ-06-2017, June 19, 2008)**

### **Judge: Gross Ignorance of the Law**

The DENR is the agency responsible for the enforcement of forestry laws and the primary agency responsible for the conservation, management, development and proper use of the country's natural resources.

Section 68 of P.D. No. 705 as amended by Executive Order No. 277, punishes the possession of forest products without the required legal documents and Section 68-A states that the DENR Secretary or his duly authorized representative may order the confiscation of any forest product illegally cut, gathered, removed, possessed or abandoned.

The forest products possessed by NMC Container Lines, Inc. without the required legal documents were seized by the DENR pursuant to its authority and adjudicated in favor of the government.

While the seized forest products were in the possession of the DENR, a Certain Roger Edma filed before respondent judge a complaint dated March 16, 2005 praying for the issuance of a Writ of Replevin ordering the DENR to deliver to him the confiscated forest products, and on March 29, 2005 respondent judge issued a Writ of Replevin ordering his Sheriff to take possession of the forest products.

Respondent judge should have dismissed the Replevin suit outright for three (3) reasons; first, under the Doctrine of exhaustion of Administrative Remedies, courts cannot take cognizance of cases pending before administrative agencies. Second, under the Doctrine of Primary Jurisdiction, courts cannot take cognizance of cases pending before administrative agencies of special competence. The DENR is the agency responsible for the enforcement of forestry laws. Third, the forest products are already in custodia legis, hence, cannot be the subject of Replevin. There was a violation of the Forestry Code and the DENR seized the forest products in accordance with law. In *Calub v. CA*, the Supreme Court held that properties lawfully seized by the DENR cannot be the subject of replevin.

The Supreme Court after considering the previous cases filed against respondent for which he was penalized, dismissed him for gross ignorance of the law with forfeiture of all retirement benefits except accrued leave credits and with prejudice to reinstatement or appointment to any public office including GOCC. **(A.M. No. RTJ 06-2017, June 19, 2008)**

### **Judge: Unbecoming Conduct, Harassment**

In *Ong v. Rosete*, A.M. No. 04-1538, October 22, 2004, the Supreme Court stressed that in Administrative proceedings, the quantum of proof required to establish a respondent's malfeasance is not proof beyond reasonable doubt but substantial evidence, i.e. that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required; that the complainant has the burden of proving by substantial evidence to the contrary, the presumption that the respondent has regularly performed his duties and that if a respondent judge or employee should be disciplined for a grave offense, the evidence against him should be competent and derived from direct knowledge. Charges based on mere suspicion and speculation cannot be given credence.

Complainant failed to present substantial evidence to prove his charges that respondent judge employed duress or any form of harassment when the latter called him up to inquire why respondent's mail was misdelivered by complainant, a postman.

The case against respondent judge was dismissed. **(A.M. RTJ – 08-2118, June 26, 2008)**

**Judge: simple misconduct; undue delay in rendering orders**

The Supreme Court has repeatedly held that failure to act on a case for a considerable length of time demonstrates lack of dedication to one's work and is administratively sanctionable.

Section 5 Canon 6 of the New Code of Judicial Conduct for the Philippine Judiciary provides that judges shall perform all judicial duties efficiently and with reasonable promptness.

In its report, the Office of Court Administrator (OCA) found respondent guilty of undue delay in resolving two motions. Also, respondent failed to act on a civil case for a considerable length of time.

For simple misconduct and undue delay in rendering orders, respondent judge was fined Php20, 000.00 and sternly warned that a repetition of the same or similar offense will be dealt with more severely **(A.M. No. RTJ -07-2035, June 12, 2008)**.

**Judge; Undue delay in rendering an Order**

The Constitution requires all lower courts to decide or resolve cases or matters within three months from the time said matter is submitted for decision or resolution. The New Code of Judicial Conduct in Canon 6, Section 5, also mandates judges to perform all judicial duties efficiently, fairly and with reasonable promptness.

These rules are in recognition of the right of every person to the speedy disposition of their cases.

Respondent judge admitted that he incurred delay in resolving complainant's urgent motion to declare all defendants in default. He explained that he is handling two branches, each receiving the same number of cases, one of which is a special commercial court.

The Supreme Court, however, held that additional assignments cannot excuse him from liability. If the caseload of a judge prevents the disposition of cases within the reglementary period, he should ask the Supreme Court for a reasonable extension of time to dispose the cases involved. This, respondent failed to do.

The Court, however, considered the mitigating circumstance of heavy caseload and additional court assignment in favor of respondent. Hence, he was fined the amount of Php10, 000.00 for undue delay in rendering an order with stern warning that a repetition of the same or similar act shall be dealt with more severely. **(A.M. No. RTJ-07, 2067, June 18, 2008)**

**Judge: Gross Ignorance of the law; Violation of Supreme Court Directives**

Section 17 (a) of Rule 114 of the Rules of Court provides that bail in the amount fixed may be filed with the court where the case is pending or in the absence or unavailability of the judge thereof, with any Regional Trial judge or Municipal trial judge, or Municipal Circuit Trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may be filed with any Regional Trial Court of said place or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit-trial judge therein.

The criminal case complainant filed against the accused was pending before the RTC of Santiago City and the judge thereat issued the Warrant of Arrest and the accused was arrested by virtue of that warrant.

Following the Rule, the bail must be filed with the RTC of Santiago City where the case is pending; or with the RTC of San Mateo if the accused was arrested thereof.

From the foregoing, it is clear that respondent judge lacked authority to approve the bail and order the release of the accused.

More, respondent judge disrespected the Supreme Court by repeatedly refusing to comment on the complaint against him. Court Resolutions directing judges to comment on administrative complaints are not mere requests. Judges are duty-bound to obey them fully and promptly.

For gross ignorance of the law and violation of Supreme Court directives, the Supreme Court dismissed respondent judge from the service with forfeiture of all benefits except accrued leave credits and with prejudice to reinstatement or appointment to any public office including GOCC. **(A.M. No. RTJ-67-1682, June 19, 2008)**

**Judge: Gross Ignorance of the Law**

Under the Rules on Summary Procedure, the preliminary conference should be conducted after arraignment and prior to trial. This procedure was not followed by the respondent judge who conducted the preliminary conference before the arraignment which gave rise to the charge of ignorance of the law against him.

The Supreme Court however, stressed that for liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found to be erroneous but must also be established to have been done with bad faith, dishonesty, hatred or some similar motive. The record is wanting in any showing that respondent was moved by wrongful, improper or unlawful conduct in setting the preliminary conference before the accused was arraigned. Complainant failed to substantiate any bad faith, malice or corrupt purpose that may have been present at the time the mistaken procedure was carried out by the respondent.

Moreover, the fact that a judge failed to follow a rule of procedure would not automatically warrant a conclusion that he is liable for gross ignorance. What is significant is whether the subject order, decision or actuation of the judge unreasonably defeated the very purpose of the law or rule under consideration and unfairly prejudiced the cause of the litigants.

The foregoing, notwithstanding, the Supreme Court strongly reiterates that incumbent judges should relentlessly be mindful that the Rules on Summary Procedure were issued for the purpose of achieving an expeditious and inexpensive determination of cases and were espoused primarily to enforce the constitutional rights of litigants to the speedy disposition of their cases. The case against the respondent judge was dismissed. **(A.M. No. MTJ-07-1686, June 12, 2008)**

#### **Judge: Gross Ignorance of the Law**

Section 5 of Rule 112 of the Revised Rules of Criminal Procedure provides that within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction for appropriate action. The resolution shall state the findings of fact and the law supporting his action, together with the records of the case which shall include the (a) Warrant - if the arrest is by virtue of a Warrant; (b) the Affidavits, Counter-Affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order of his release; (d) the transcript of the proceedings during the preliminary investigation ; and (e) the order of cancellation of the bail bond, if the resolution is for the dismissal of the complaint.

The said rule requires the judge who conducts the preliminary investigation to submit his resolution within ten (10) days after preliminary investigation and that his resolution should state the findings of facts and the law in support thereof.

Respondent judge transmitted his resolution of the case for qualified theft against complainant to the provincial prosecutor three (3) months after the preliminary investigation, not ten (10) days as required by the rule. Worse, he did not state in his resolution the findings of fact and the law supporting his action. The Supreme Court found respondent judge guilty of gross ignorance of the law and imposed on him a fine of Php 25, 000.00 with stern warning that a repetition of the same offense will be dealt with more severely. **(A.M. No. MTJ-08-1703, June 17, 2008)**

#### **Sheriff: Grave misconduct**

The authority of a sheriff is broad but it is not boundless. In the enforcement of judgments and judicial orders, a sheriff as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. He must know what is inherently right and wrong and must discharge his duties with prudence and caution. Moreover, he must, at all times show a high degree of professionalism in the performance of his duties.

Respondent disregarded the mandatory procedure prescribed by the Rules of Court in Section 10 of Rule 141, when he entered into a contract with complainant for the hauling service in the execution of the writ without complying with the standard procedure of estimation of expenses.

Section 10 of Rule 141 provides that the sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guard's fees, warehousing and similar charges, shall be paid by the interested party in an amount estimated by the sheriff subject to the approval of the court.

Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court ex-officio sheriff who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

Respondent was found guilty of grave misconduct for which he was dismissed from the service with forfeiture of all retirement benefits with prejudice to re-employment in any branch of the government including government-owned or controlled corporation. He was further directed to pay complainant actual damages in the amount of P14,000.00. **(A.M. No. P-08-2454, May 7, 2008)**

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