



Supreme Court of the Philippines Philippine Judicial Academy



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Judges; Grave abuse of discretion

Section 15 of Rule 70 on Forcible Entry and Unlawful Detainer, in conjunction with Section 5, rule 58, on Preliminary Injunction of the Rules of Court expressly prohibit the grant of preliminary injunction without hearing and prior notice to the party or person sought to be enjoined. But courts are authorized to issue ex-parte temporary restraining order (TRO) if it should appear from facts shown by affidavits or by verified petition that great or irreparable injury would result to the applicant before the matter could be heard on notice. The TRO, however, shall be effective only for a period of 20 days from notice to the party or person sought to be enjoined. During the 20-day period the judge must conduct a hearing to consider the propriety of issuing a preliminary injunction. At the end of such period, the TRO automatically terminates w/o need of judicial declaration to that effect, leaving the court no discretion to extend the same.

Respondent judge committed grave abuse of discretion when he granted the application for a writ of preliminary mandatory injunction without any notice of hearing for which, he was fined P10,000.00. (A.M. No. MTJ-02-1461, March 31, 2005)

Judges: Gross ignorance of the law

It is elementary that a municipal judge has no authority to grant bail to an accused outside of his territorial jurisdiction. The requirements of Section 17 (a), Rule 114 must be complied with before a judge may grant bail. The Court recognizes that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment. Where, however, the law is straight-forward and the facts so evident, not to know it or to act as if one does not know it constitutes gross ignorance of the law.

Respondent erred in approving the bail and issuing the order of release. He should have known that certain requirements ought to be complied with before he can approve the bail and issue the order of release.

As the records show that respondent judge has been found guilty of similar charges, he was suspended for six months and fined P10,000.00 for his obstinate failure to file comment on the complaint filed against him despite proper notice. (A.M. No. MTJ-04-1556, March 31, 2005)

Judges: Grave Abuse of Discretion

Section 15, Rule 70 on forcible entry and unlawful detainer, in conjunction with Section 5, Rule 58 on preliminary injunction expressly prohibit the grant of preliminary injunction without hearing and prior notice to the party or person sought to be enjoined.

Respondent judge committed grave abuse of discretion when he granted the application for writ of preliminary mandatory injunction in a civil case without any notice of hearing.

He was meted a fine of P10,000.00. (A.M. No. MTJ-02-1461, March 31, 2005)

Judges: Simple misconduct

Under Section 1, Rule 110, Revised Rule of Criminal Procedure, criminal actions in chartered cities are instituted by filing the complaint only with the city prosecutor. The rule implies that the task of conducting preliminary investigation in these cities is now lodged with the Office of the City Prosecutor.

Respondent judge committed simple misconduct when he conducted preliminary investigation of a case instead of referring it to the city prosecutor. She was fined P11,000.00 and directed to devote her time and effort exclusively to discharging her judicial functions. (A.M. No. MTJ-04-1547, April 15, 2005)

Judges: Gross ignorance of the law

It is a dictum that a person applying for bail should be in the custody of the law or otherwise deprived of liberty. Indeed, bail is unavailing with respect to an accused who has not voluntarily surrendered or who as yet to be placed in legal custody.

Respondent judge failed to give a satisfactory explanation why he issued the release order although the accused did not post bail and was not under detention. He also acted without authority in approving the application for bail in violation of Section 17, Rule 114 of the Revised Rules of Criminal Procedure.

For ignorance of the law, respondent was fined P40,000.00 (A.M. No. MTJ-01-1362, May 10, 2005)

Judges: Gross ignorance of the law or procedure

It is a basic rule that all written motions should be heard. Excepted from this rule are non-litigious motions – those which may be acted upon by the court without prejudicing the rights of the adverse party.

Respondent violated the rule when he granted the motion to cancel the statutory lien, a litigious motion, without hearing. He was fined P20,000.00. (A.M. No. RTJ-05-1915, May 6, 2005)

Judges: Undue delay in transmitting records of case

It is the duty of the investigating judge after the conclusion of the preliminary investigation to transmit the entire records of the case within 10 days as required by the Rules.

Respondent judge failed to comply with his ministerial duty of transmitting within 10 days the records of the case subject of the preliminary investigation he conducted after the conclusion thereof. Worse, he vehemently insisted, albeit erroneously, that there was no need to elevate the transcript of said proceedings. He was fined P20,000.00. (A.M. No. MTJ-05-1589, April 26, 2005)

Judges: Violation of the Code of Judicial Conduct

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. The Canons also cautions a judge from making personal investments in enterprises which are apt to be involved in litigation in his court.

Respondent violated the Code by allowing himself to act as an agent in the sole of properties. He caught perhaps to seriously consider leaving the judiciary and becoming a full-time real estate broker instead. The latter calling appears to have a special appeal to him. He was suspended for 6 months. (A.M. No. MTJ-02-1452, April 6, 2005)

Judges: Expeditious implementation of a judgment

Procedural rules are primarily designed to promote expeditious administration of justice. Procedural remedies not expressed in the law or rules and which may cause unreasonable delay in the final determination and enforcement of cases must be ignored to give significance to the drafting of the Rules of Court. Thus, in issuing the assailed order, respondent judge merely sought to carry out the expeditious implementation of a judgment which was already final and executory. For such commendable act, respondent judge should be praised, not condemned.

The evidence reveals that respondent judge notified complainants and conducted a hearing before the issuance of the writ of execution and special writ of demolition. It was only when the execution and demolition were not implemented that, upon ex-parte motion of the plaintiffs, respondent judge directed the sheriff to enforce the writs despite the absence of notice and hearing considering that these rights had already been availed of by complainants. The second order was a mere implementation of a prior order implementing execution and demolition. Even Section 10 (d) of Rule 39 is silent as to the need for a second hearing in case the first motion for the issuance of writ of execution and special order of demolition was not fully implemented.

The case against respondent judge was dismissed. (A.M. No. MTJ-05-1587, April 15, 2005)

Judges: Knowingly rendering an unjust judgment or order

The Supreme Court found extreme bias and bad intent in respondent's award to plaintiff of a whopping P16.2 million in damages considering that he did not try the case himself, that the only records he actually read came from no one else but plaintiff himself. By itself, the unconscionable amount of the award evinces indubitable malice on respondent's part and the shady circumstances in which he granted it show that he knowingly rendered a manifestly unjust decision.

By acting on a document which was sorely defective (failure to serve a copy on the adverse party and it was filed after office hours), and by making an egregiously large award of damages in favor of plaintiff, respondent opened himself up to suspicion of having entered into a dirty, secret deal with the plaintiff and thereby severely tarnished the impartiality of which he was at all times supposed to conduct himself.

For knowingly rendering an unjust judgment, respondent was suspended for 6 months. (A.M. No. RTJ-05-1896, April 29, 2005)

Clerk of Court: Simple neglect of duty

As custodian of judicial records, it is incumbent upon the clerk of court to ensure an orderly and efficient court management system in the court and to supervise the personnel under his office to function effectively. He controls and supervises the safekeeping of court records, papers, files, exhibits and public property committed to his charge.

Respondent admitted during the investigation that he is aware that the Sinumpaang Kontra Salaysay filed by complainant is still part of the court files and yet, chose to separate said document from the case folder.

Respondent was found guilty of simple neglect of duty and fined P5,000.00. **(A.M. No. P-05-1986, April 15, 2005)**

Stenographer (OIC Clerk of Court): Dishonesty and gross misconduct

Clerks of Court are the custodians of the court's funds and revenues, records, property and premises. Thus, they are liable for any loss, shortage, destruction or impairment of said funds and property. They should immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody. They are accountable officers entrusted with the great responsibility of collecting money belonging to the funds of the court.

Respondent failed in her duty. She admitted that she misappropriated and lent to her co-workers the fiduciary funds collected by her. For dishonesty and gross misconduct, she was dismissed from the service. **(A.M. No. P-98-1281, April 27, 2005)**

Stenographer: Discourtesy

In the performance of their duties and responsibilities, court personnel serve as sentinels of justice and any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary. Belligerent behavior has no place even when confronted with rudeness and insolence. They should act with self-restraint and civility.

Respondent's remark "aram gid ti mo" in the local dialect connotes disrespect and discourtesy for which she was found guilty of discourtesy in the course of official duties. She was reprimanded. **(A.M. No. P-04-1927, April 15, 2005)**

Sheriff: Neglect of duty

Section 14, Rule 39, of the Rules of court makes it mandatory for a sheriff to make a return of the writ of execution to the clerk of court or the judge issuing it.

Respondent sheriff did not exert any effort to fully satisfy the judgment and yet in his final report he stated that the writ was fully satisfied, which is inaccurate and far from the truth. A writ of execution is satisfied only when it carries out the mandates of the decision to the satisfaction of the judgment oblige.

Respondent was suspended for one month and sternly warned. **(A.M. No. MTJ-05-1584, March 31, 2005)**

Sheriff: Neglect of duty

The duty of the sheriff in the execution of a writ is purely ministerial. He has no discretion whether to execute it or not.

Respondent sheriff failed to observe the correct procedure in order to ensure the proper administration of justice; rules which he is presumed to know by heart. It is clear that by his actuations, he displayed conduct short of the stringent standards required of court employees. He was guilty of neglect of duty for which he was suspended for one month. **(A.M. No. MTJ-05-1584, March 31, 2005)**

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