



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 08-06
June 2008

Judges: Various unsubstantiated charges

The Supreme Court has always been punctilious about any conduct, act or omission that would violate the norm of public accountability or diminish the people's faith in the judiciary. Along this line it does not shirk from its responsibility of imposing discipline among members of the bench.

However, when an administrative charge against a judge holds no basis whatsoever in fact or in law, the Supreme Court does not hesitate to protect the innocent against any groundless accusation that trifles with judicial process. Neither does it falter in shielding him, from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.

The administrative charges against respondent judge were dismissed for lack of merit and insufficiency of evidence, **(A.M. No. 00-10-496-RTC, April 30, 2008)**

Clerk of Court: Gross discourtesy

As held by the Supreme Court in A.M. No. P-97-1236, an employee of the judiciary is expected to accord respect for the person and rights of others at all times and his every act and word characterized by prudence, restraint, courtesy, and dignity. Government service is people-oriented and where high-strung and belligerent behavior is not allowed. No matter how commendable respondent's motives may be as a public officer, courtesy should be his policy always.

The above exhortation applies with more force in the case of respondent because as clerk of court, he is supposed to be the model of all court employees not only with respect to the performance of their assigned tasks, but also in the manner of conducting themselves with propriety and decorum ever mindful that their conduct, official or otherwise, necessarily reflects on the court of which they are a part.

Respondent failed to accord his judge the due respect for his failure to notify him of the raffle of cases.

For gross discourtesy, in the course of official duties, respondent was fined in the amount equivalent to his salary for one month and one day. **(A.M. No. RTJ-08-2109, April 30, 2008)**

Sheriff: Simple misconduct

A sheriff is required to secure the court's prior approval of the estimated expenses and fees needed to implement a court process. The requesting party shall then deposit the amount with the clerk of court, and the expenses shall be disbursed to him subject to his liquidation within the same period for rendering a return on the process or writ. Any unspent amount shall be refunded to the party who made the deposit.

Respondent's claim that the amount of P10,000.00 was unexpectedly given him by complainant and that he was forced to accept it cannot excuse him from liability. He should know that as sheriff, he is not allowed to receive any voluntary payments from the parties in the course of the performance of his duties for to do so would be inimical to the best interest of the service. Even assuming arguendo that such payment was indeed given and received in good faith, this fact alone would not dispel the suspicion that this was made for less than noble purposes.

For respondent's act of receiving money from complainant without observing the proper procedure laid down by the rules, the Supreme Court found him liable for simple misconduct. He was fined in the amount of P5,000.00 with a stern warning that repetition of the same or similar offenses shall be dealt with more severely. **(A.M. No. P-07-2307, March 14, 2008)**

Sheriff: Simple neglect of duty

In the enforcement of a writ, a sheriff owes fervor and obedience to the law, not to the whims and caprices of a party. The Supreme Court on numerous occasions emphasized that there is no need for the litigants to follow-up the matter before the sheriff should act.

Administrative Circular No. 12 dated October 1, 1985 vests upon the sheriffs the primary responsibility to speedily and efficiently serve all court processes and writs. The circular directs them to submit a report to the judge concerned on the action taken on all assigned writs and processes within 10 days from receipt thereof. Moreover, it provides that a monthly report shall be submitted to the OCA indicating the number of writs and processes issued and served (or unserved) during the month with the unserved writs and processes further explained in the report.

The submission of the return and periodic reports by the sheriff is not a duty that must be taken lightly. It serves to update the court as to the status of the execution and to give it an idea as to why the judgment was not satisfied. It also provides insights for the court as to how efficient court processes are after judgment has been promulgated.

Respondent sheriff was remiss in the performance of his duties – expeditious implementation of the writ assigned to him, and failure to submit monthly progress reports.

Respondent was found guilty of simple neglect of duty and was fined in an amount equivalent to his salary for one month, with a warning that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. P-06-2214, April 16, 2008)**

Sheriff: Simple neglect of duty

Those who are tasked to implement court orders and processes must see to it that the final stage of the litigation process – the execution of judgment – should be carried out promptly. A sheriff, specially, must exert every effort and should consider it his bounden duty to do so at all times, having at heart the genuine concern that a decision left unexecuted or delayed indefinitely would be nothing but an empty victory on the part of the prevailing party. Hence, several times over the Supreme Court has held that a sheriff's responsibility in the execution of writ is mandatory and purely ministerial, not directory; once it is placed in his hands, it is his duty, unless restrained by the court, to proceed with reasonable speed to enforce the writ to the letter, ensuring at all times that the implementation of the judgment is not unjustifiably deferred.

The immediate issuance of a certificate of sale after the conduct of an execution sale is significant since it is only upon its registration with the appropriate Registry of Deeds that the one-year redemption period of the judgment debtor begins to run. Unless the certificate of sale is issued and registered, and until the redemption period expires without the debtor exercising his right to redeem the property, all that the highest bidder could do is to wait. Unlike the rule on extrajudicial foreclosure of mortgage, the purchaser in an execution sale has no right to possess the property by posting a bond during the period of redemption. A writ of possession may only be issued in favor of the winning bidder when the deed of conveyance has been executed and delivered to him after the period of redemption has expired and no redemption has been made. This is in accordance with the last paragraph of Section 33, Rule 39 of the Rules of Court.

In spite of the fact that no restraining or injunction order was issued by the trial court, the certificate of sale was only issued by respondent after the lapse of almost four (4) years after the execution sale, causing material prejudice to the welfare of complainant's minor daughter. In short, the timely realization of the action for support which complainant won in behalf of her minor child was unnecessarily delayed, if not almost defeated.

Respondent sheriff's deliberate omission only evince that he was remiss in performing the duty of his office to diligently and expeditiously implement the writ of execution to the very end.

For simple neglect of duty; respondent was fined P5,000.00 with a warning that a repetition of the same or similar act in the future shall be dealt with more severely. **(A.M. No. P-05-2054, April 30, 2008)**

Stenographer: Gross neglect of duty

Stenographers are enjoined to faithfully comply with Section 17, paragraph 1, Rule 136 of the Rules of Court which states:

Section 17. It shall be the duty of the stenographer who has attended a session of a court either in the morning or in the afternoon, to deliver to the clerk of court, immediately at the close of such morning or afternoon session, all the notes he has taken, to be attached to the record of the case, and it shall likewise

be the duty of the clerk to demand that the stenographer comply with the said duty. The clerk of court shall stamp the date on which such notes are received by him. When such notes are transcribed the transcript shall be delivered to the clerk, duly initialed on each page thereof, to be attached to the record of the case.

Administrative Circular No.: 24-90 further requires stenographers to transcribe notes 20 days from the time they were taken.

Respondent's persistent failure to transcribe stenographic notes as prescribed above constitutes gross neglect of duty. As a stenographer, she should have realized that the performance of her duty is essential to the prompt and proper administration of justice, and her inaction hampers the administration of justice and erodes public faith in the judiciary.

Respondent was found guilty of gross neglect of duty. She was dismissed from the service, with forfeiture of all benefits and privileges except accrued leave credits, if any, with prejudice to re-employment in any branch or agency of the government including government owned or controlled corporations. **(A.M. No. P-04-1765, April 8, 2008)**

Interpreter: Willful failure to pay just debt

Willful failure to pay just debt amounts to conduct unbecoming a court employee, which is a light offense.

It was improper for respondent to stop payment of the balance of the purchase price of the item sold to his wife by complainant just because a penalty for the delay in the payment was charged. He could have paid the balance of the purchase price as a manifestation of fairness in the deal as he was in a position to pay as he did ultimately pay the penalty charges.

Respondent was reprimanded for willful failure to pay just debt and warned to be more circumspect and to avoid act, official or otherwise, which may be perceived to be taking advantage of his position as an employee of the judiciary. **(A.M. No. P-08-2447, April 10, 2008)**

Process Server: Immorality

Immoral conduct is conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community,

The abandonment of one's wife and children, and cohabitation with a woman not his wife, constitutes immoral conduct that is subject to disciplinary action.

Respondent's act of maintaining an illicit relationship with a woman not his wife is within the purview of Section 46 (b) (5) of Subtitle A, Title I, Book V of the Administrative Code of 1987, disgraceful and immoral conduct.

Respondent process server was found guilty of immorality and suspended for six months and one day without pay with stern warning that the commission of the same or similar offenses shall be dealt with more severely.

After serving his suspension, respondent was ordered to give the required financial support to his family. He was also warned that his failure will be a ground for his dismissal from the service. **(A.M. No. P-08-2431, April 16, 2008)**

Chancellor, Philippine Judicial Academy

Ameurfina A. Melencio Herrera

Head, Research, Publications and Linkages Office

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

Editorial Assistant

Atty. Amelia T. Guillamun

Staff

Nennette G. Zaldivar
Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the Research Publications and Linkages Office of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila Tel. No. (02)552-9531; Telefax; (02)552-9621, E-mail address: research_philja@yahoo.com. For e-library: www.supremecourt.gov.ph link to e-library.

If you have any Fax No. or E-mail address, please let us know so we could send direct to you the "Alerts."