



Supreme Court of the Philippines Philippine Judicial Academy



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Judges; failure to decide cases and to resolve pending incidents constitutes gross inefficiency.

Delay in acting on cases not only results in undermining the people's faith in the judiciary, but also reinforces in the minds of the litigants the impression that the wheels of justice grind ever so slowly. Worse, it invites suspicion of ulterior motives on the part of a judge.

Judges are not required to await the transcription of stenographic notes before they could render a decision. This would cause undue delay since judges could easily find justification for failing to comply with the mandatory period to decide cases.

For gross inefficiency, both respondents were fined and sternly warned. (A.M. 00-2-65 RTC, February 15, 2005).

Judge; gross ignorance of the law; authority of an assisting judge.

Although a person in custody and who is not formally charged in court could apply for bail, pursuant to Section 17 (c), Rule 114, the grant thereof by respondent judge was nonetheless irregular. No formal petition or application for bail was filed by the accused and even if one was filed, his Court could not have properly taken cognizance of the same since the accused was detained in another city. There was also no showing that the regular judge was unavailable to act on the application for bail. When respondent granted the bail, he was merely an assisting judge. More, respondent disregarded basic rules when he granted the bail without notice and hearing thus depriving the prosecution of procedural due process.

For gross ignorance of the law, respondent was fined P5,000. (A.M. RTJ-02-1731, February 16, 2005).

Judge; undue delay in the transmittal of records to the Court of Appeals.

The reason for the rule requiring prompt transmittal of records in appealed cases is to ensure the speedy disposition of the case.

Respondent judge did not embody the ideals of a good judge when she failed to take appropriate action that would ensure the prompt transmittal of the records of complainant's case to the Court of Appeals.

Respondent cannot seek refuge in the incompetence of her subordinate since proper and efficient court management is her own responsibility. She is the master of her own domain and should take responsibility for the mistakes of those under her.

Respondent was fined P20,000. (A.M. RTJ-04-1846, January 31, 2005).

Judge; gross ignorance of the law; failure to require presence of accused during promulgation of judgment..

There are two instances when judgment may be promulgated even without the presence of the accused: (1) when the judgment is for a light offense, in which case, the counsel for the accused or a representative may stand for him, and (2) in cases where despite due notice to the accused or his bondsman or warden and counsel, the accused failed to appear at the promulgation of the decision. The evident purpose of the latter exception is to afford the offended party the opportunity to enforce the award of indemnity which could not otherwise be affected if the decision cannot be pronounced on account of the absence of the accused.

Respondent judge is liable for gross ignorance of the law in not requiring the presence of the accused during the promulgation of the decision inasmuch as the judgment in the latter's case did not fall under any of the aforesaid exceptions.

For gross ignorance of the law, respondent was fined P10,000. (A.M. MTJ-05-1575, January 31, 2005).

Judge; conducting court proceedings abroad without authority from the Supreme Court constitutes gross misconduct.

Judges in their zeal to search for the truth should not lose the proper judicial perspective and should see to it that in the execution of their duties they should not overstep the limitations of their power as laid by the rules of procedure.

Respondent was found guilty of gross misconduct in conducting proceedings abroad without the necessary authority from the Supreme Court. He was suspended for 6 months (A.M. RTJ-04-1888, February 11, 2005).

Judge; notarizing documents not in connection with the exercise of his functions.

For MTC and MCTC judges assigned to municipalities or circuits with no lawyers or notaries public to validly perform any act of a regular notary public, two requisites must concur: (1) all notarial fees charged must be for the account of the Government and turned over to the municipal treasurer, and (2) certification be made in the notarized documents attesting to the lack of lawyer or notary public in such municipality or circuit.

Respondent judge acted beyond the scope of his authority as notary public ex officio when he notarized documents not in connection with the exercise of his functions and without complying with the requirement of certification as to lack of notary public within his municipality, for which he was fined P7,000. (A.M.-MTJ-05-1576, February 3, 2005).

Clerk of Court; gross dishonesty.

The failure of a clerk of court to account for money deposited with him and adequately explain and present evidence thereon, constitutes gross dishonesty, grave misconduct and even malversation of public funds which the Court will never countenance as they indubitably diminish the faith of the people in the judiciary.

Respondents' failure to immediately give the respective shares of her officemates in the financial assistance granted by the local government and her repeated acts of encashing or negotiating the checks of her subordinates without their prior knowledge and consent constitute gross dishonesty.

Respondent was dismissed from the service for gross dishonesty. **(A.M.-P-01-1468, February 10, 2005).**

Branch Clerk of Court; demanding and receiving cash bond deposits without authority; issuing fake receipts and unauthorized provisional receipts; issuing orders of release to jail officers; dishonesty; grave misconduct; and usurpation of judicial function.

Supreme Court Circular No. 13-92 dated March 1, 1992 enumerates the guidelines to be followed in making deposits or withdrawals of all collections from bail bonds, rental deposits and other fiduciary collections. Fiduciary collections ought to be the responsibility of the clerk of court, not the branch clerk of court.

In demanding and receiving cash bond deposits without authority, respondent committed grave misconduct. Apart from the unauthorized collection of cash bond deposits, respondent issued false receipts and unauthorized provisional receipts which constitutes dishonesty. On top of all said infractions, he also issued release orders to jail officers, thus arrogating to himself the exercise of judicial functions.

In view of all the forgoing, respondent branch clerk of court was dismissed from the service. **(A.M.-P-03-1708, February 16, 2005).**

Branch Clerk of Court; demanding/receiving commissioner's fee constitutes simple misconduct.

Section B, Chapter II of the Manual for Clerks of Court provides that no branch clerk of court shall demand and/or receive commissioner's fee for the reception of evidence ex-parte.

The records convincingly show that respondent demanded and received commissioner's fee from a litigant in an ex-parte proceedings for which she was suspended for 2 months. **(A.M.-P-0101459, January 31, 2005).**

Sheriff; failure to observe rules on extra-judicial foreclosure of mortgage.

The respondent's categorical admission that he conducted the auction sale to accommodate a friend despite the latter's non-payment of the necessary legal fees is sufficient to mete disciplinary sanction against him.

As an officer of the Court and having been in the government service for a long time, the respondent ought to have known that accommodating a person at the expense of the legal processes tends to frustrate and betray the public trust in the judicial system.

Extra-judicial foreclosure sales should be conducted under the direct supervision and control of the Executive Judge and the Clerk of Court ex-officio sheriff.

Respondent sheriff was suspended for 6 months without pay. **(A.M.-P-01-1514, February 18, 2005).**

Sheriff; failure to prepare estimate of expenses in the execution of writ for the approval of the Court is a violation of Section 9 of Rule 141.

Instead of preparing an estimate of expenses to be incurred in the implementation of the writ of execution and thereafter securing the court's approval thereof, respondent sheriff verbally estimated the expenses and directly conveyed the same to the judgment creditor complainant.

This procedure taken by respondent violated the provisions of Section 9 of Rule 141 for which he was fined P2,000. **(A.M.-P-03-1671, January 31, 2005).**

Sheriff; failure to submit on time sheriffs' return; neglect of duty.

It is mandatory for a sheriff to make a return of the writ of execution to the clerk of court or judge issuing it. If the judgment cannot be satisfied in full within 30 days after receipt of the writ, the sheriff shall report to the court and state the reason or reasons therefor.

Respondent is liable for simple neglect of duty for his failure to submit sheriff's return and was fined P1,000. **(A.M.-P-04-1828, February 14, 2005).**

Sheriff; agreeing to receive money for performing his duties; conduct unbecoming.

During the investigation conducted by the Executive Judge, respondent admitted that he and the complainant had an agreement, that is, in case the writ would be successfully served on the defendant, he would received P500 from complainant.

By entering into such agreement, respondent is guilty of conduct unbecoming a court employee, hence, was fined P2,000. **(A.M.-P1828, February 14, 2005).**

Interpreter (designated collecting cash clerk); misappropriation of fiduciary funds.

Supreme Court Circular No. 50-95 mandates that deposits of fiduciary funds shall be made in a savings account in the name of the Court; with its Clerk of Court and the Executive Judge as authorized signatories; withdrawal slips shall be signed by the Executive Presiding Judge and countersigned by the clerk of court. No withdrawals shall be allowed unless there is a lawful order from the court that has jurisdiction over the subject matter involved.

Respondent violated said circular by using her cash collections for her personal needs. She deposited the Court's fiduciary funds in her personal account instead of for the account of the court.

For misappropriation of fiduciary funds respondent was dismissed from the service. (A.M.-P-01-1515, February 10, 2005).

Stenographer; dishonesty and falsification.

The use of a false certificate of eligibility constitutes an act of dishonesty and making a false statement in the personal data sheet constitutes falsification.

Respondent's claim that she was a victim of an injustice perpetrated by the fixers, insiders and syndicates operating in the regional office of the Civil Service Commission does not merit consideration. The same is self-serving. If the said claim were true, she should have explained this convincingly with competent evidence. No fixer will simply give a person a fake certificate without the latter dealing with the former.

Respondent was dismissed from the service. (A.M.-04-10-619-RTC, February 10, 2005).

Stenographer; failure to safeguard stenographic notes.

Stenographic notes are deemed official documents which form part of the records of a case. Great fidelity and care is required of the court stenographer in possession of these documents.

Respondent by reason of her office was expected not only to complete the transcription of her stenographic notes but account for their whereabouts as well.

The fact that she eventually found the notes is creditable, yet it does not serve to obviate the reality that the trial of complainants' case was delayed as a result of the loss.

Respondent stenographer was reprimanded. (A.M.-P-05-1961, February 17, 2005).

Clerk IV; exercise of functions outside of her duties and responsibilities constitutes simple misconduct.

As Clerk IV, respondent is not authorized to receive money for whatever purpose more so because she was detailed to another branch. Granting that the exigency of the situation justified her receipt of the money, respondent is still liable because she failed to turn over its custody to the clerk of court as soon as possible. Instead, she kept the money in her custody for 17 months. Thus, when respondent accepted the money, she arrogated to herself the authority to exercise a function that properly belongs to the clerk of court.

However, there being no evidence that respondent was moved by evident bad faith, dishonesty or hatred; she is liable only for simple misconduct for which she was suspended for 2 months. (A.M. P-05-1958, February 7, 2005).

Process Server; neglect of duty

Conformably to the mandate of speedy disposition of justice stressed by the Constitution, it is crucial that summonses, writs, and other court processes be served expeditiously and without delay.

Respondent's bare claim that he delivered the summonses to parties and counsels on time was belied by the fact that his trial judge ordered the re-setting of scheduled hearings as the parties did not receive the notices thereof.

Respondent was found guilty of simple neglect of duty and was suspended for two months. (A.M. P-05-1946, January 31, 2005).

Utility Worker; gross inefficiency

The charge for gross inefficiency against respondent was sufficiently substantiated by complainant's evidence. The testimonies of his officemates that he had to be reminded practically everyday on how to do his job show his penchant for taking his job lightly and, worse, refusing to take heed the reasonable advice of his superiors.

Respondents' obstinate refusal to improve his performance despite constant reminders and warnings and his inability to perform even simple errands were the reasons why he received an unsatisfactory rating.

Respondent was suspended for 10 months. (A.M. P-05-1936, January 21, 2005).

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