



Supreme Court of the Philippines  
Philippine Judicial Academy



*PHILJA Fax/Electronic Alerts*

Issue 06-03  
March 2006

**PHILJA Schedule of Seminars for April-May 2006**  
**(as of March 29, 2006)**

Apr. 4-5	Career Enhancement Program (MCLE Compliance) for SC-CA Attorneys (Batch 1)
Apr. 5	Workshop on the Development of PHILJA's Orientation for Court Personnel on Mediation Course
Apr. 5-7	Cluster 6 for Regions 1-2, Regional Multi Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advanced Level), Baguio City
Apr. 18-20	Workshop on the Family Court Video Training Module (Selected FC Judges), Tagaytay
Apr. 19-21	Environmental Law Seminar (HARIBON) Samar and Bohol, Tacloban City
Apr. 19-21	PACSWI, Subic International Hotel
Apr. 25-27	Regional Judicial Career Enhancement Program (Round 4) Region VI
Apr. 26-28	JACOPHIL Convention, Malaybalay City Bukidnon
April	Orientation for Newly Appointed Clerks of Court (First Level), Manila Discussion Seminar on R.A. 9208, R.A. 9262 and IRR's for CA Justices Discussion Forum for Sandiganbayan Justices
May 3-5	Cluster 7 for Regions 10, 11,12, Regional Multi Sectoral Seminar-Workshop on Juvenile and Domestic Relations Justice (Advance Level), Davao City
May 5-7	Pre-Judicature Program (MCLE compliant)
May 9-10	Career Enhancement Program (MCLE Compliance) for SC-CA Attorneys (Batch 1)
May 12-14	Pre-Judicature Program (MCLE compliant)
May 17-19	Environmental Law Seminar (HARIBON) CARAGA Region, Davao City 4 <sup>th</sup> National Convention and General Assembly of Philippine Association of Court Interpreter, Regent Hotel, Naga City
May 19-21	Pre-Judicature Program (MCLE compliant)
May 31 – June 2	Convention of FLECCAP, Bohol Tropics, Tagbilaran City

**Appellate judges: when administrative action is premature**

Complainant maintains that the Ninth Division ignored his arguments when with one of the Associate Justices as ponente, it ruled in favor of PPSTA. He points out that the aforesaid Associate Justices of the Court of Appeals exhibited gross ignorance of the law when they gave due course to and granted PPSTA's petition for review, as said act was not only in violation of the rule against forum shopping but also clearly devoid of merit, PPSTA allegedly was not a proper party to the case.

The Court holds that the filing of the instant administrative complaint is premature. There is a pending motion for reconsideration of the decision of the appellate court. It precisely seeks the rectification of any error which the appellate court justices may have committed. Under the circumstances, the dropping of the administrative complaint is inexorable. An administrative complaint is not the appropriate remedy for every irregular or erroneous order or decision issued by a judge where a judicial remedy is available.

More fundamentally, the act complained of pertains to the justices' exercise of their judicial functions and, as such, is not subject to the Court's disciplinary power unless committed with fraud, dishonesty, corruption or bad faith, which exception complainant has neither shown nor proven. The Court DISMISSED the complaint. (OCA IPI No. 05-93-CA-J, January 21, 2006)

**Judges: misrepresentation and gross misconduct**

The respondent judge denies that the transaction was attended by fraud or misrepresentation, alleging that it was a case of honest mistake, "a classic example of a mere clerical error committed by a typist in copying a technical description in the plan." As in his Answer to the civil case, he thus heaps the blame on his secretary. Complainant maintains, however, that the judge gave him a title covering a property near a ravine, not the title of the lot he had decided to buy.

Misconduct is one that affects an officer's performance of his duties and not one that affects his character as an individual. It is any unlawful conduct, in the judge's case, in the administration of justice prejudicial to the rights of the parties or to the right determination of the cause. As a ground for disciplinary action, the conduct must thus have direct relation to and be connected with the performance of his judicial duties. The Court found respondent judge guilty of impropriety and fined him in the amount of Php12,000. The complaint against his Clerk of Court was dismissed as she could not have thwarted the implementation of the writ of execution. (A.M. No. MTJ-06-1622, January 27, 2006)

**Judges: failure to resolve cases within the prescribed period**

The records in this case show that as of audit date, respondent had failed to decide 16 cases within the prescribed period and to resolve matters pending in 23 others. He had failed to act on 97 cases for an unreasonable length of time, some of them for more than three and a half years. Worse, he neglected to decide within the required period, one case, which was originally reported still to be within the required period as of audit date, and allowed said case to remain undecided up to his retirement.

By his failures, respondent violated Rule 3.05, Canon 3 of the Code of Judicial Conduct which mandates that a judge should dispose of the court's business promptly and decide cases within the required periods. Respondent should be reminded that his assumption of judicial office casts

upon him duties and restrictions peculiar to his position. The Court found respondent judge liable for gross inefficiency for undue delay in rendering judgments and fined him in the amount of Php 20,000 to be deducted from his retirement benefits. (A.M. No. RTJ-04-1825, January 27, 2006)

**Judges: gross misconduct; dismissal:**

The acts of the respondent in demanding and receiving money from litigants before his court for a favorable judgment constitute a "serious charge" as defined in Section 8 of Rule 140 of the Rules of Court. Specifically, respondent committed direct bribery and gross misconduct constituting violations of the Code of Judicial Conduct both of which are enumerated in that provision. Respondent judge was DISMISSED from the service. (A.M. No. RTJ-98-1426, January 31, 2006)

**Judges: gross ignorance of the law and procedure**

The Rule on Examination of a Child Witness does not permit a defense counsel to even approach a child who is testifying if it appears that the child is fearful of or intimidated by the counsel. x x x Neither does the Rule require manifestation from the child or her mother to exclude the public from the hearing. The court may motu proprio exclude the public from the courtroom to protect the right to privacy of the child; if requiring the child to testify in open court would cause psychological harm to her; if it would hinder the ascertainment of truth or result in her inability to effectively communicate due to embarrassment, fear or timidity; and, if the evidence to be produced is of such character as to be offensive to decency or public morals.

Indubitably then, respondent was remiss in the performance of his duties when he not only allowed the cross-examination of the parties during the preliminary investigation, but also failed to resolve the criminal complaints within the period mandated by law. For gross ignorance of the law and procedure, the respondent was fined Php 20,000 and sternly warned that a repetition of the same will merit a more severe penalty. (A.M. No. MTJ-06-1619, January 23, 2006)

The Court notes the report of the Office of the Court Administrator on the letter charging respondent with ignorance of the law and procedure, grave abuse of authority, violation of the Constitution and grave misconduct relative to a criminal case, finding that the matters raised in this administrative complaint are judicial in nature. As recommended in the said Report, the Court resolves to DISMISS the instant complaint filed against respondent judge for lack of merit. (A.M. OCA-IPI No. 05-25297, February 1, 2006)

**Judges: failure to resolve cases within the period fixed by law**

The office of the judge exists for one solemn end – to promote the ends of justice by administering it speedily and impartially. The judge, as the person presiding over that court, is the visible representation of the law and justice. x x x Failure to resolve cases submitted for decision within the period fixed by law constitutes a serious violation of the constitutional right of the parties to speedy disposition of their cases.

Records show that respondent judge failed to decide the cases submitted for decision and to resolve pending incidents and motions, despite the lapse of more than a year since he was directed to comply. The excuses he proffered to explain his tardiness are not satisfactory. If respondent felt that he could not decide the cases or the pending incidents within the reglementary period, he should have asked for extension of time to dispose of the same. This Court, cognizant of the caseload of judges and mindful of the difficulty encountered by them in the seasonable disposition of cases, have always granted requests for extension of time to decide. Respondent judge was fined in the amount of Php 20,000 for gross inefficiency. (A.M. No. RTJ-05-1968, January 31, 2006)

**Judges: gross ignorance of the law and conduct unbecoming**

With the factual backdrop that was made so complicated not by the issues involved, but because of the numerous pleadings complainant filed in relation to the case subject of this complaint, we cannot help but opine that this complaint is just another manifestation of complainant's "propensity to luxuriate in nuisance pleadings". We therefore consider her complaint to have been filed solely for harassment purposes for being clearly baseless and unfounded. We also find it detestable for her to call respondent a "hoodlum in robe", not faithful to law and justice but to a "shadow power" behind him and all her other allegations insinuating patent corruption in the judiciary, when the basis she can offer is the issuance of respondent of the order allowing sale of the levied properties to continue which she claims to be illegal and erroneous. The Court resolved to DISMISS the complaint against respondent judge and required the complainant to SHOW CAUSE within ten(10) days from receipt of order why she should not be held in contempt of court. (A.M. OCA IPI No. 05-2164-RTJ, February 1, 2006)

**Judges: grave misconduct**

In its Report, the Office of the Court Administrator recommended that the case be dismissed for lack of merit with the caveat to respondent to be more circumspect in the performance of his duties. The OCA noted that there is nothing on record to support the claim of a malicious conspiracy to harass complainant or any interest that respondent may have on the subject firearms. It indicated that respondent's error in initially taking cognizance of the criminal case is not enough to warrant sanction, especially since respondent detected his own mistake and rectified it immediately, obviating any appreciable prejudice to complainant. The Court found the recommendation of OCA to be in accordance with law and the facts of the case and approved the same, thus DISMISSING the complaint for lack of merit. Respondent was ADVISED to be more circumspect in the performance of his duty. (OCA IPI No. 05-1721-MTJ, February 1, 2006)

**Judges: serious misconduct, inefficiency and gross ignorance of the law**

Complainant asserted that respondent judge has not resolved his Motion for Reconsideration and Motion for Voluntary Inhibition with prayer for change of venue but instead issued an Omnibus Order holding in abeyance the proceedings of the election protest. Complainant averred that the Court forthwith order the change of venue and inhibition of respondent without prejudice to the latter's dismissal and disbarment.

The OCA recommended the dismissal of the case for lack of merit. The OCA noted that the challenged act of respondent pertains to his judicial function and, as such, is not subject to disciplinary power unless committed with fraud, dishonesty, corruption or bad faith, which complainant has not proven or shown. Further, the OCA stated that the complainant has the remedy of filing a motion for reconsideration and an appeal in case of the denial of the former, which he had already pursued. Finding the recommendation to be in accord with the law and the facts of the case on record, the same is APPROVED and the administrative complaint against respondent judge is DISMISSED for lack of merit. (A.M. OCA IPI No. 05-2335-RTJ, February 13, 2006)

**Judges: gross misconduct, gross ignorance of the law and simple misconduct**

In a previous Resolution, the Court found respondent guilty of gross misconduct for demanding Php 250,000 from complainant, using complainant's karaoke bar for free and for entertaining litigants at his home; of gross ignorance of the law for lifting a writ of preliminary attachment without according the complainant due notice and hearing; and Simple Misconduct for his negligence in approving an insufficient counter-bond. The Court also considered as aggravating circumstance, the fact that respondent had been previously found guilty of violating Circular No.4, enjoining inferior court judges from playing or being present in gambling casinos. Thus, the Court imposed the penalty of DISMISSAL from the service with forfeiture of all benefits except

accrued leave credits and disqualification from reinstatement to any public office. Respondent was further required to SHOW CAUSE why he should not be disbarred from the practice of law for conduct unbecoming of a member of the bar.

In compliance with the Court's directive, respondent filed his Comment where he asserted his innocence of the serious charge of corruption. As to the findings of misconduct arising from his using complainant's karaoke bar and his entertaining litigants at his home, respondent avers that although such actuations may constitute violations of the Code of Judicial Conduct, the same are not violations of the Code of Professional Responsibility. He further pointed out that the order being assailed, which lifted the writ of preliminary attachment in favor of herein complainant, was issued prior to the effectivity of the Resolution in A.M. No. 02-9-02-SC (*Re: Automatic Conversion of Some Administrative Cases Against Justices of the Court of Appeals and the Sandiganbayan; Judges of Regular and Special Courts; and Court Officials Who are Lawyers as Disciplinary Proceedings Against Them Both as Such and as Members of the Philippine Bar*). Hence, respondent argues that said Resolution is not applicable to his case.

Respondent has a point in stating that: the Resolution in A.M. No. 02-9-02-SC should not be applied in his case. However, the application of the said Resolution to a particular administrative action is not dependent on the date of filing of the case. In *Office of the Court Administrator v. Morante*, it was categorically held that A.M. No. 02-9-02-SC cannot be applied to an administrative case filed with this Court before its effectivity on October 1, 2002. The administrative case against herein respondent having filed sometime in July 2002, said Resolution, requiring the automatic conversion of the administrative complaint against respondent judge into a disciplinary proceedings against him both as such official and as member of the Philippine Bar, should not apply to the respondent. The disciplinary action against respondent as member of the Philippine Bar was DISMISSED. (A.M. No. RTJ-03-1802, February 28, 2006)

#### Judges: undue delay in rendering decisions and orders

This is not to say, however, that the Court is turning a blind eye on the plight of our judges. When circumstances arise that would render a judge incapable to decide within the prescribed time a case submitted for decision or resolution, all that the judge has to do is to request and justify an extension of time within which to resolve it. The Court, cognizant of the heavy caseloads of some judges and mindful of the difficulties encountered by them in the disposition thereof, is almost always disposed to grant such requests on meritorious grounds. However, pointed out by the OCA, respondent judge failed to file any motion for extension despite the availability of this remedy. Thus, his neglect of this matter in the light of his inability to reduce his backlog of undecided cases cannot be completely excused. For undue delay in rendering decision and orders, respondent judge was ordered to pay a fine of Php 50,000 which shall be deducted from the Php 200,000 withheld from his retirement benefits. (A.M. No. RTJ-05-1965, January 23, 2006)

"This Court finds that the period of one and a half month within which to study and prepare a decision does not constitute the delay stated in the Canons of Judicial Conduct. The right to a speedy disposition a case, like the right to a speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays. The concept of speedy disposition is a relative term and must necessarily be a flexible concept. Hence, the doctrinal rule is that in the determination of whether or not that right has been violated, the factors that may be considered and balanced are the length of delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay. This Court does not find that respondent in this case has thus delayed the disposition of the case. The complaint is DISMISSED for lack of merit. (A.M. No. 01-34-CA-J, January 23, 2006)

#### Clerks of Court: neglect of duty

As custodian of court funds and revenues, Clerks of Court have always been reminded of their duty to immediately deposit the various funds received by them to the authorized government depositories for they are not supposed to keep funds in their custody.

Delay in the remittances of collections constitutes neglect of duty. The failure to remit on time judiciary collections deprives the court of interest that may be earned if the amounts are deposited in a bank. Shortages in the amounts to be remitted and the years of delay in the actual remittance constitute neglect of duty for which the respondent shall be administratively liable. Respondent was fined Php 10,000 for simple neglect of duty. (A.M. No. P-06-2127, February 17, 2006)

#### Utility worker: dishonesty

The law requires that all officers and employees of all departments and agencies, except those covered by special laws, to render not less than eight (8) hours of work a day for five (5) days a week or a total of forty (40) hours a week, exclusive of time for lunch. As a general rule, such hours shall be from eight o'clock in the morning to five o'clock in the afternoon on all days, except Saturdays, Sundays and Holidays. Off-setting of tardiness or absences by working for an equivalent number of minutes or hours by which an officer or employee has been tardy or absent, beyond the regular or approved working hours of the employees concerned, shall not be allowed.

The DTRs submitted by the respondent show that she was present in her workplace during the times she was attending classes in a caregiver course. The entries therein show that she was consistently present from 8:00 in the morning to 12:00 noon and from 12:30 to 4:30 in the afternoon with no absences or tardiness. The Court paid her full salaries and allowances for the months of June, July and August 2004, the entire duration of her classes. In view of the mitigating circumstances in respondent's favor, respondent was fined in the amount of Php 5,000 to be deducted from her leave credits. Her appointment will no longer be renewed. (A.M. No. 2004-35-SC, January 23, 2006)

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### **Chancellor, Philippine Judicial Academy**

Ameurfina A. Melencio Herrera

#### **Head, Research 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 Tapales

Rodrigo G. Javier

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