



# Supreme Court of the Philippines Philippine Judicial Academy



## ***PHILJA Fax/Electronic Alerts***

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### **Judges: Gross ignorance of the law**

Under R.A. No. 9262, Anti-Violence Against Women and their Children Act of 2004, a TPO (temporary protection order) cannot be issued in favor of a man against his wife. Such a TPO if issued to protect a husband would be absurd because it is specifically applicable to women and their children, not to men.

The Supreme Court after considering the previous administrative cases of respondent for which she was penalized dismissed her from the service for gross ignorance of the law for issuing a TPO in favor of the husband of complainant. **(A.M. No. RTJ-07-2049)**

### **Judges: Gross ignorance of the law**

Section 7 of Rule 71 provides:

*SEC. 7. Punishment for indirect contempt.* – If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. If he is adjudged guilty of contempt committed against a lower court, he may be punished by **a fine** not exceeding five thousand pesos **or imprisonment of one (1) month, or both**. If the contempt consists in the violation of a writ of injunction, temporary restraining order or status quo order, he may also be ordered to make complete restitution to the party injured by such violation of the property involved or such amount as may be alleged and proved.

The writ of execution, as in ordinary civil actions, shall issue for the enforcement of a judgment imposing a fine unless the court otherwise provides. (italics in the original; emphasis and underscoring supplied)

Respondent judge penalized complainants to imprisonment of four(4) months, instead of one month as provided in Sec. 7 of Rule 71 for violating an order of a municipal trial court.

For gross ignorance of the law, respondent judge was fined P25,000. **(A.M. No. RTJ-09-2196, April 2, 2010)**

### **Judges: Gross ignorance of the law**

Under Section 5 of Rule 114, when the accused is sentenced to reclusion perpetua, the bail should be cancelled. The act of respondent judge in increasing the bail bond of the accused instead of canceling it violated the said Section 5, of Rule 114.

For gross ignorance of the law, respondent judge was fined P20,000.00 **(A.M. No. RTJ-09-2190, April 23, 2010)**

### **Clerk of Court: Gross dishonesty and grave misconduct**

SC Circular No. 26-97 dated May 5, 1997 directs all judges and clerks of court to:

Compel their collecting officials to strictly comply with the provisions of Art. VI, Sec. 61 and 113 of the AUDITING AND ACCOUNTING MANUAL, to wit:

“ARTICLE VI – Accountable Forms”

“Sec. 61. Kinds of Accountable forms – (a) Official Receipts – For proper accounting and control of collections, collecting officers shall promptly issue official receipts for all monies received by them. These receipts may be in the form of stamps or officially numbered receipts xxx”. (Underscoring supplied).

“Sec. 113. Issuance of official receipt – for proper accounting and control of revenues, no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof. [These] receipts may be in the form of stamps xxx or officially numbered receipts, subject to proper custody and accountability.” (Underscoring supplied).

Respondent clerk of court violated said Circular when she did not issue the original receipts but merely furnished complainant with photocopies of said receipts.

Also, respondent violated SC Administrative Circular No. 5-93 for keeping in her custody the fees she received and failing to deposit the same to the authorized depository bank.

For gross dishonesty and grave misconduct, respondent was dismissed from the service with forfeiture of her retirement benefits. **(A.M. No. P-07-2338, April 7, 2010)**

#### **Clerk of Court: Grave misconduct**

Under the Manual for Clerks of Court, the clerk of court has control and supervision over all court records, exhibits, and documents. Specifically, he is in charge of the authenticity and integrity of all court records.

Respondent clerk of court failed to perform her duty to properly supervise the transmittal of all the records of Criminal Case No. 44739 - including the marking of exhibits, otherwise, the alterations in the exhibits and the loss of the TSN in the records of said criminal case would not have taken place. Respondent miserably failed to supervise the persons under her and to check that the records she was transmitting were true, accurate and complete.

For grave misconduct and conduct highly prejudicial to the best interest of the service, respondent clerk of court was dismissed from the service with forfeiture of all retirement benefits. **(A.M. No. P-07-2409, April 7, 2010)**

#### **Sheriff: Inefficiency and incompetence in the performance of official duties**

Sheriffs, as public officers are repositories of public trust and are under obligation to perform the duties of their office honestly, faithfully, and to the best of their abilities. They are bound to use reasonable skill and diligence in the performance of their official duties, particularly where the rights of individuals might be jeopardized by their neglect.

Respondent sheriff failed to exercise due diligence in the performance of his duties. The writ of demolition he was executing covered only Lot No. 80-A and 81-A and he was informed earlier by complainant that his house was constructed on Lot 81-B which was not covered by the writ of demolition, yet, respondent sheriff demolished complainants' house. He should have conducted a relocation survey on the areas involved in the case.

For inefficiency and incompetence in the performance of official duties, respondent was suspended for six (6) months without pay and benefits. **(A.M. No. P-07-2322, April 23, 2010)**

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