



# Supreme Court of the Philippines Philippine Judicial Academy



## *PHILJA Fax/Electronic Alerts*

Issue 07-11  
November 2007

### **Judges: Grave Abuse of Discretion, gross Ignorance of the law and knowingly rendering unjust interlocutory orders**

Generally accepted is the principle that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court. In the same manner an execution can be issued only against a party and not against one who did not have his day in court. In *Lorenzana v. Cayetano*, this Court held that only real parties-in-interest in an action are bound by judgment therein and by writs of execution and demolition issued pursuant thereto.

Indeed, a judgment cannot bind persons who are not parties to the action. It is elementary that strangers to a case are not bound by the judgment rendered by the court and such judgment is not available as an adjudication either against or in favor of such other person. A decision of a court will not operate to divest the rights of a person who has not and has never been a party to a litigation, either as plaintiff or as defendant. Verily, execution of a judgment can only be issued against one who is a party to the action, and not against one who, not being a party to the action, has not yet had his day in court. That execution may only be effected against the property of the judgment debtor, who must necessarily be a party to the case.

The writ of execution must conform to the judgment which is to be executed, as it may not vary the terms of the judgment it seeks to enforce. Nor may it go beyond the terms of the judgment which is sought to be executed. Where the execution is not in harmony with the judgment which gives it life and exceeds it, it has *pro tanto* no validity. To maintain otherwise would be to ignore the constitutional provision against depriving a person of his property without due process of law.

As can be seen, the law involved is simple and elementary; lack of conversance therewith constitutes gross ignorance of the law. Judges are expected to exhibit more than just cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in all good faith. Judicial competence requires no less.

A judge owes it to himself and his office to know by heart basic legal principles and to harness his legal know-how correctly and justly. When a judge displays utter unfamiliarity with the law and the rules, he erodes the confidence of the public in the courts. Ignorance of the law by a judge can easily be the mainspring of injustice. As an advocate of justice and a visible representation of the law, a judge is expected to be proficient in the interpretation of our laws. When the law is so elementary, not to know it constitutes gross ignorance of the law. Ignorance of the law, which everyone is bound to know, excuses no one – not even judges. *Ignorantia juris quod quisque scire tenetur non excusat*.

Competence is a mark of a good judge. When a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. It is highly imperative that judges be conversant with the law and basic legal principles. Basic legal procedures must be at the palm of a judge's hands.

Herein respondent was found **LIABLE** for Gross Ignorance of the Law and Knowingly Rendering an Unjust Interlocutory Order in issuing the Order dated 2 May 2002 directing the implementation of the writ of execution x x x and is hereby ordered to pay a **FINE** of FORTY THOUSAND (P40,000.00) PESOS, to be deducted from his retirement benefits. **(A.M. No. RTJ-06-1971, October 17, 2007)**

### **Judges: Irregularities and procedural lapses in the conduct of trial**

A judge should observe the usual and traditional mode of adjudication which requires that he should hear both sides with patience and understanding to keep the risk of reaching an unjust decision at a minimum. A judge must neither sacrifice for expediency's sake the fundamental requirements of due process nor forget that he must conscientiously endeavor each time to seek the truth, to know and aptly apply the law, and to dispose of the controversy objectively and impartially. This especially so since marriage, which is the subject of the case before herein respondent, is legally inviolable; thus, it is protected from dissolution at the whim of the parties

True is the principle that an administrative case is not the proper remedy for alleged errors committed by a judge in deciding a case where a judicial remedy exists. But in *Roxas v. Eugenio*, the Court held that until

there is a final declaration by the appellate court that the challenged order or judgment is manifestly erroneous, there will be no basis to conclude whether respondent judge is administratively liable; and in *Senson v. Pangilinan*, the Court expounded that the existence of judicial remedy does not preclude resort to an administrative remedy.

And while the CA may have already resolved the judicial remedy, the ignorance of the judge of both substantive and procedural laws warrants an administrative sanction.

It is a fundamental rule that every motion must be set for hearing by the movant except for those motions which the court may act upon without prejudicing the rights of the adverse party. The notice of hearing must be addressed to all parties and must specify the time and date of the hearing, with proof of service. Section 4 of Rule 15 provides that every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure their receipt by the other party at least three days before the date of hearing, while Section 6 states that no written motion set for hearing shall be acted upon by the court without proof of service thereof. Indeed, proof of service is mandatory. A motion without notice of hearing is *pro forma*, or a mere scrap of paper which the court has no reason to consider; while a motion without proof of service is nothing but an empty formality deserving no judicial cognizance, and the rule mandates that the same shall not be acted upon by the court.

Suffice it to be stated that the requirements in Section 4 and 6, Rule 15 of the Rules of Court on notice of hearing and proof of service thereof to the adverse party, far from being merely technical and procedural, are necessary elements of procedural due process. Failure to observe such simple rules constitutes gross ignorance of the law or procedure.

The Court reiterates once more that although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives. If judges wantonly misuse the powers vested in them by the law, there will be not only confusion in the administration of justice but also oppressive disregard of the basic requirements of due process. Further, it has been held that ignorance of the law is the mainspring of injustice. Members of the bench are therefore reminded of their duty to be faithful to the law and to maintain professional competence. They are called upon to exhibit more than just cursory acquaintance with statutes and procedural rules, for their inexcusable failure to observe the same will render them administratively liable.

Herein one of the respondent judges was found **GUILTY** of gross ignorance of the law and procedure. He was imposed a penalty of **FINE** in the amount of P21,000.00 to be deducted from his accrued leave credits.

The other respondent judge was found **GUILTY** of gross ignorance of the law and jurisprudence tantamount to grave abuse of authority. He was imposed a **FINE** in the amount of P40,000.00 with stern warning that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. RTJ-06-2030, A.M. No. RTJ-07-2032, October 5, 2007)**

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

Respondent avers that there is no showing that he has previously committed as administrative offense, and no malice or bad faith was established in the commission of the administrative infraction. This, he adds, is his first administrative offense in his almost twenty-five (25) years of service in the judiciary and he had always performed his judicial duties faithfully and efficiently, striving to meet the stringent standards required of members of the bench so that he may be beyond reproach and suspicion at all times. He submits to the Court's finding of administrative liability and accepts the same, maintaining that such transgression was an honest error in judgment with no intent to disregard applicable laws and jurisprudence. He thus asks that his administrative offense be considered as a mere lapse in judicial discretion which, though constitutive of gross ignorance of the law, may warrant a less severe penalty. He submits further that his only means of livelihood and/or source of income is his compensation as presiding judge, he having no other business or employment from which he can derive income to support his family.

Since malice or bad faith on the part of respondent has not been established, and this is the first time that respondent has been held liable for an administrative offense, x x x. the Motion for Reconsideration and Judicial Clemency is GRANTED in PART. Respondent was ordered to pay a FINE of P21,000.00 with a WARNING that a repetition of the same or similar acts will be dealt with more severely. **(A.M. No. RTJ-06-2018, October 15, 2007)**

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

Indeed, as a matter of public policy, not every error or mistake committed by judges in the performance of their official duties renders them administratively liable. In the absence of fraud, dishonesty or deliberate intent to do an injustice, acts done in their official capacity, even though erroneous, do not always constitute misconduct.

Only errors that are tainted with fraud, corruption or malice may be the subject of disciplinary actions. For administrative liability to attach, respondent must be shown to have been moved by bad faith, dishonesty, hatred or some other similar motive. Verily, judges may not be held administratively liable for any of their official acts, no matter how erroneous, as long they acted in good faith.

Although not every judicial error signifies ignorance of the law which warrants administrative sanction, this holds true only in instances of tolerable misjudgment. Where, however, an elementary constitutional mandate is violated, the blunder constitutes ignorance of the law.

Respondent judge was found **GUILTY** of gross ignorance of the law, and was ordered to pay a **FINE** of **TWENTY THOUSAND PESOS** (P20,000.00) upon notice. She was sternly **WARNED** that a repetition of the same offense will be dealt with more severely. The other charge was **DISMISSED** for lack of merit. **(A.M. No. RTJ-07-2075, October 9, 2007)**

**Judges: Gross Ignorance of the law and gross violation of the constitutional rights of the accused and abuse of authority**

Before its amendment, Section 5, Rule 112 of the Revised Rules on Criminal Procedure provides:

*Sec. 5. Resolution of investigating judge and its review. ---*  
Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor. or to the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction, for appropriate action.  
xxx

As clearly stated in the said rule, after a preliminary investigation is conducted, the investigating judge must perform his ministerial duty to transmit within 10 days after the conclusion thereof, the resolution of the case together with the entire records to the provincial prosecutor. Indeed, it is the duty of judges to promptly resolve pending incidents, such as preliminary investigations, especially in criminal cases, consistent with the constitutionally guaranteed right of the accused to speedy trial and the time-honored precept that justice delayed is justice denied. In this regard, the Court shall not hold back in imposing disciplinary sanctions on judges for their ignorance or deliberate disregard of the laws on preliminary investigation.

The Court has always impressed upon members of the judiciary the need to decide cases promptly and expeditiously. The Code of Judicial Conduct enjoins judges to administer justice impartially and without delay, and to dispose of the court's business promptly and within the period set by the rules. Failure of a judge to decide a case within the period prescribed is inexcusable and constitutes gross inefficiency warranting disciplinary sanction.

Respondent judge was found GUILTY of GROSS INEFFICIENCY for her undue delay in the resolution of the preliminary investigation. Respondent was imposed a FINE of Ten Thousand Pesos (P10,000.00) with a STERN WARNING that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. MTJ-06-1652, October 3, 2007)**

**Chancellor, Philippine Judicial Academy**

Ameurфина 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

Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the Research and Linkages Office of the Philippine Judicial Academy with offices at the 3<sup>rd</sup> Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9526 E-mail address: [research\\_philja@yahoo.com](mailto:research_philja@yahoo.com). For e-library: [www.supremecourt.gov.ph](http://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."