



Supreme Court of the Philippines Philippine Judicial Academy



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Judges: Undue delay in rendering a resolution and violation of Court directives

Supreme Court Administrative Circular No. 13-87 provides that lower courts are given a period of three (3) months within which to resolve motions, and Supreme Court Administrative Circular No. 1-88 states that all presiding judges must endeavor to act promptly on all motions and interlocutory matters pending before their courts.

Respondent judge did not act on the motion for reconsideration within the three (3) months period required of him to do so. His claim that the motion was not filed by the proper party is not a valid excuse to ignore said motion.

The unreasonable delay of respondent judge in resolving the motion submitted for his resolution violated complainants' constitutional right to a speedy disposition of his case.

Further, respondent judge was also found liable for ignoring directives for him to comment on the complaint filed against him.

For undue delay in rendering a resolution and violation of Court directives, respondent judge was fined in the amount of P80,000 to be deducted from the amount withheld from his retirement benefits. **(A.M. No. RTJ-08-2144, November 3, 2008)**

Judges: Gross ignorance of the law

A.M. No. 03-1-09-SC dated August 16, 2004 (Rule on Guidelines to be Observed by Trial Court Judges and Clerk of Court in the Conduct of the Pre-Trial and Use of Deposition-Discovery Measures) provides that within 5 days from date of filing of reply, the plaintiff must promptly move *ex parte* that the case be set for pre-trial conference. If the plaintiff fails to file said motion within the given period, the Branch Clerk of Court shall issue a notice of pre-trial.

Respondent judge failed to observe the said Rule. He did not direct his branch clerk of court to set the case for pre-trial or at least for a hearing after the filing of the answer and when the plaintiff did not move for a pre-trial conference within 5 days from the date the reply was filed.

For gross ignorance of the law respondent judge was fined by the Court P10,000 and sternly warned that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. RTJ-08-2146, November 18, 2008)**

Judges: Gross misconduct

Section 1 of Canon 4 of the New Code of Judicial Conduct provides that judges shall avoid impropriety and the appearance of impropriety in all of their activities, and Section 2 of said Canon provides that judges must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, judges shall conduct themselves in a way that is consistent with the dignity of the judicial office.

Respondent judge violated the New Code of Judicial Conduct when he acted in wanton disregard of the exacting standards of conduct attached to his position as a magistrate. Maltreating his lowly employee in the presence of court personnel and litigants constitutes improper conduct which should not and must not be allowed to go unpunished.

For gross misconduct the Court imposed upon respondent Judge a fine of P20,500 to be deducted from the amount of P80,000 previously withheld from his retirement benefits. **(A.M. No. MTJ-03-1499, October 6, 2008)**

Clerk of Court: Simple neglect of duty

Under the Revised Manual for Clerks of Court, the Branch Clerk of Court as the Administrative Officer of the court, among others, controls and supervises the safekeeping of court records. Moreover, Section 7, Rule 36 of the Rules of Court specifically mandates the clerk of court to safely keep all records, paper files, exhibits, and public property committed to his charge. As custodian of judicial records, it is incumbent upon him to ensure an orderly and efficient record management system in the court and to supervise the personnel under his office to function effectively.

Respondent clerk of court failed to complete the records of complainants' case. His justification that the other volumes that form part of the records would only congest their filing cabinets cannot absolve him.

For simple neglect of duty, respondent clerk of court was fined in the amount equivalent to one month salary, and sternly warned that a repetition of the same or similar offense shall be dealt with more severely (A.M. No. RTJ-08-2144, November 3, 2008)

Clerk of Court: Simple misconduct

A judgment rendered against the defendant in an ejectment case is immediately executory upon motion of the plaintiff. To stay the immediate execution of the judgment, Section 19, Rule 70 of the Rules of Court requires that defendant-appellant must perfect his appeal, file a supersedeas bond, and periodically deposit the rentals falling due during the pendency of the appeal. The failure of the defendant to comply with any of these conditions is a ground for the outright execution of the judgment, the duty of the court in this respect being ministerial and imperative.

Respondent clerk of court's refusal to issue the writ shows that she made her own evaluation of the matter as well as the validity of the order of execution itself.

In doing so, respondent took upon herself the performance of a judicial function which is outside her duties. Clerks of Court cannot be allowed to exercise judicial functions. Respondent's ministerial duty to issue the writ of execution as ordered by the MTCC judge remains whether the immediate execution is upheld or reversed by the appellate court. Her belief and conclusion that a patent error was committed by the judge, when the latter granted complainant's motion for the issuance of a writ of execution and at the same time gave due course to defendant's notice of appeal by directing the transmission of the case records to the RTC is wrong.

There being no evidence that respondent was moved by evident bad faith, dishonesty or hatred, the Court found her liable only for simple misconduct for which she was fined P5,000 and warned that a repetition of a similar offense shall warrant a more severe penalty. (A.M. No. P-08-2552, October 8, 2008)

Stenographer: Inefficiency and neglect of duty

Administrative Circular No. 24-90 requires all court stenographers to complete and submit their transcript of stenographic notes within 20 days from the date said TSN's have been taken.

Respondent repeatedly failed to submit her TSN's within the prescribed period. The circumstance that there appears to be no proof that any litigant or counsel has complained about the delay do not exonerate respondent for her non-compliance with Administrative Circular No. 24-90. Her laxity in the performance of her duties impedes the efficient administration of justice.

For inefficiency/neglect of duty, respondent stenographer was suspended from the service for one year without pay and sternly warned that a repetition of the same or similar offense will warrant a more severe penalty. (A.M. No. P-06-22-49, October 8, 2008)

Sheriff: Simple neglect of duty

Section 10 (1) of Rule 141 of the Rules of Court provides that sheriffs in implementing writs of execution must prepare and submit for the approval of the court their estimated expenses to be incurred in the implementation of the writ, and Section 14, of Rule 39 of the 1997 Rules of Procedure requires all sheriffs to make and submit periodic returns in connection with the writs assigned to them for execution.

Respondent failed to submit the required estimate of expenses for approval of the court, neither did he submit the required periodic report or return as required by said Rules.

For violation of the Rules, respondent sheriff was found guilty of simple neglect of duty for which he was suspended from the service for one month and one day without pay. (A.M. No. P-07-2402, October 15, 2008)

Process Server: Gross misconduct

Section 10 (e) of Rule 41 and A.M. No. 04-2-04-SC requires all sheriffs, process servers and other court authorized persons to submit to the court for approval a statement of the estimated travel expenses for the service of summons and court processes. Once approved, the Clerk of Court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the Court for approval.

Respondent process server was remiss in the performance of his duties when he failed to follow the aforementioned Rules. Moreover, he failed to serve the summons assigned to him on time. It took him more than one month to do so.

Considering that respondent has been previously sanctioned and warned in four administrative cases, the Supreme Court dismissed respondent from the service for grave misconduct with prejudice to reemployment in any branch of service in the Government including GOCC's. (A.M. No. P-06-2192, June 12, 2008)

Process Server: Simple neglect of duty

Under Section 6, Rule 21 of the Revised Rules of Court, service of subpoena can be made either by personal service or substituted service. Should personal service unavailable, the process server should do it by way of substituted service.

Respondent process server did not serve the subpoena by way of substituted service when personal service was not possible. Respondent's lackadaisical deportment shows his inefficiency and incompetence in the performance of his duties. He is guilty of simple neglect of duty which signifies the failure of an employee to give attention to a task expected of him and a disregard of a duty resulting from carelessness or indifference.

For simple neglect of duty the Court suspended respondent for three months without pay and sternly warned him that a repetition of the same or similar acts shall be dealt with more severely. (A.M. No. P-05-2072, August 13, 2008)

Electrician: Dishonesty

OCA Circular No. 7-2003 provides that court personnel should indicate in their bundy cards the truthful and accurate times of their arrival at, and departure from the office.

The investigation report of the OCA consultant disclosed the fact that respondent admitted that he borrowed the security guards logbook not to compare the time appearing on his bundy card with the time on the logbook but to insert on the logbook the time he typed on his bundy card.

In A.M. No. P-04-2036, dated July 15, 2008, the Court held that employees who commit irregularities in the keeping of time records are administratively liable and falsification of time records constitutes dishonesty which is a disposition to lie or deceive.

For dishonesty, the Court suspended respondent electrician II, Halls of Justice, for six months and sternly warned him that a repetition of the same or similar acts shall be dealt with more severely. (A.M. No. HOJ-07-01, June 12, 2008)

Utility Worker: Dishonesty and falsification of official documents

Making untruthful statements in one's personal data sheet constitutes falsification and dishonesty.

Respondent's personal data sheet showed that he was never convicted for violation of any law, decree, ordinance or regulation by any court or tribunal. However, the court records of a municipal court showed that on August 25, 1965, respondent was found guilty of theft and sentenced to suffer a penalty of 25 days imprisonment.

For dishonesty and falsification of official document, respondent utility worker was dismissed from the service with forfeiture of all retirement benefits except accrued leave credits, and with prejudice to reemployment in any branch of the government including GOCC's. (A.M. No. P-08-2506, August 12, 2008)

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