



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 14-11
November 2014

Judges: Violation of Rule 5.06 of the Code of Judicial conduct

As a general rule, a judge is prohibited from serving as executor, administrator, trustee, guardian or other fiduciary in the affairs and interests of private individuals to minimize the risk of conflict with his judicial duties and to allow him to devote his undivided attention to the performance of his official functions.

When a judge serves as administrator of the properties of private individuals, he runs the risk of losing his neutrality and impartiality when the interests of his principal conflicts with those of the litigants who come before his court.

The only exception to said rule as provided in Rule 5.06 is when the estate or trust belongs to, or the ward is a member of his immediate family. And only if his service as executor, administrator, trustee, guardian or other fiduciary will not interfere with the proper performance of his judicial duties. The Code defines "immediate family" as being limited to the spouse and relatives within the second degree of consanguinity.

Respondent judge violated the rule when he accepted his appointment as attorney-in-fact of the complainant who is not a member of his immediate family.

For violation of Rule 5.06, respondent was fined P20,000.00. **(A.M. No. MTJ-13-1837, September 24, 2014)**

Judges: Gross misconduct and Insubordination

A judge who deliberately and continuously fails and refuses to comply with the resolution of the Supreme Court to comment on the administrative complaint filed against him is guilty of Gross Misconduct and Insubordination.

Respondent judge was afforded several opportunities to comply with the Court's lawful orders to file his comment, yet, he failed and continuously refused to heed said orders, which failure is a glaring proof that he is not interested to remain with the judicial system to which he belongs.

Respondent judge's automatic resignation due to his filing of a Certificate of Candidacy for the Barangay Election did not divest the Court of its jurisdiction in determining his administrative liability.

For Gross misconduct and Insubordination, respondent was dismissed from the service with forfeiture of retirement benefits and with prejudice to re-employment in the government service including GOCC's. **(A. M. No. RTJ-08-2140, October 7, 2014)**

Clerk of Court: Simple misconduct

In *Concepcion v. Hubilla*, 445 Phil. 689 (2003) the Supreme Court held that clerks of court are not authorized to demand and/or receive commissioner's fees for reception of evidence ex parte. To be entitled to reasonable compensation, a commissioner must not be an employee of the Court. Section D(7), Chapter IV of the Manual for Clerks of Court provides that "the Court shall allow the commissioner, other than an employee of the court, such reasonable compensation as the circumstances of the case warrant to be taxed as costs against the defeated party, or apportioned, as justice requires."

Respondent clerk of court violated the said rule when he demanded and receive P3,000.00 as commissioner's fee from the complainant.

For simple misconduct, respondent was suspended for three (3) months. **(A. M. No. P-13-3102, September 8, 2014)**

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