PHILJA E-Alerts

The PHILJA Electronic Alerts is published by the Research, Publications and Linkages Office of the Philippine Judicial Academy, with office at the 3rd Floor of the Supreme Court Centennial Building, Padre Faura Street corner Taft Avenue, Manila.

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Issue 18-11
November 2018

JUDGES

- **Gross ignorance of the Law**

Here, respondent judge hastily dismissed the subject case without regard to the basic rules of procedure and the circumstances evident on records.

To recall, the assailed February 4, 2009 Order dismissed the subject case pursuant to Section 1(h), Rule 16 and Section 3, Rule 17 of the Rules of Court. However, Section 2, Rule 16 plainly provides that a dismissal of the case pursuant thereto requires a hearing, wherein "the parties shall submit their arguments on the question of law and their evidence on the questions of fact involved" in the case. Only after the requisite hearing may the court dismiss the action or claim. Instead of conducting a preliminary hearing, respondent judge dismissed the subject case based on A's mere allegation that his loan obligation has been fully satisfied.

In *Bautista v. Causapin, Jr.,* the Court categorically ruled that the failure of respondent judge to conduct a preliminary hearing on the motion to dismiss the complaint under Rule 16, amounts to gross ignorance of law which makes a judge subject to disciplinary action:

> Without notice and hearing, respondent judge dismissed the complaint in the said civil case because of the purported defect in the certificate of non-forum shopping. Thus, plaintiffs were not afforded the opportunity to explain, justify, and prove that the circumstances in Cavile are also present in Civil Case No. 1387-G.
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> x x x x
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> **Where 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. **The mistake committed by respondent Judge is not a mere error of judgment that can be brushed aside for being minor. The disregard of established rule of law which amounts to gross ignorance of the law makes a judge subject to disciplinary action.**

Moreover, as correctly noted by the OCA, records of the case negate dismissal under Section 3, Rule 17, because GSIS was never remiss in its duty to prosecute the case. In fact, GSIS earnestly availed itself of all legal remedies available and proceeded to present its evidence *ex parte* upon the order of respondent judge.

Verily, for carelessly dismissing the subject case in utter disregard of elementary rules of procedure, respondent judge acted in gross ignorance of the law under Section 8, Rule 140 of the Rules of Court as amended by A.M. No. 01-8-10-SC, and was ordered to pay a fine of P35,000 with a stern warning that a repetition of the same or any similar infraction shall be dealt with more severely. ***[A.M. No. RTJ-17-2491 (Formerly OCA I.P.I. No. 10-3448-RTJ), July 4, 2018]***

- **Violation of Administrative Circular No. 3-92 in relation to A.M. No. 01-9-09-SC**

It is beyond cavil that respondent judge occupied a portion of the Halls of Justice at XXX as her residential quarters.

In a number of cases, this Court has consistently reminded government officials that the Halls of Justice must strictly be used for official functions only, in accordance with Administrative Circular No. 3-92, which partly states:

x x x x

> All judges and court personnel are hereby reminded that the Halls of Justice may be used only for purposes directly related to the functioning and operation of the courts of justice, and may not be devoted to any other use, least of all as residential quarters of the judges or court personnel, or for carrying on therein any trade or profession.
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> x x x x

Section 3 of A.M. No. 01-9-09-SC reiterates the said prohibition, thus:

> **SEC. 3. Use of [Halls of Justice] HOJ**
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> > **SEC. 3.1.** The HOJ shall be for the exclusive use of Judges, Prosecutors, Public Attorneys, Probation and Parole Officers and, in the proper cases, the Registries of Deeds, including their support personnel.
> >
> > **SEC. 3.2.** The HOJ shall be used only for court and office purposes and shall not be used for residential, i.e., dwelling or sleeping, or commercial purposes.
> >
> > **SEC. 3.3.** Cooking, except for boiling water for coffee or similar beverage, shall not be allowed in the HOJ.

Moreover, the justifications proffered by respondent judge fail to persuade. For one, it is irrelevant whether or not the living quarters she occupied was an extension of her chambers; the fact remains that the same was inside and part of the Halls of Justice. In any event, the Court held in *Bautista v. Costelo, Jr.* that "[t]he prohibition against the use of Halls of Justice for purposes other than that for which they have been built extends to their immediate vicinity including their grounds."

Also, her denial of having solicited from the local government the provision of a living quarters does not deserve credence. According to the Municipal Mayor of XXX in her July 23, 2015 letter addressed to complainant:

> a **verbal agreement** was made between the Local Chief Executive and the presiding judge that **instead of granting the latter an additional Representation Allowance and Transportation Allowance (RATA),** the local government gave her the privilege to use the extension of the said office, which was constructed by the municipal government, as her living quarter[s].
>
> Such arrangement was made as the municipal government's way of **compensating the services of the Presiding Judge** whose presence paved the way for a speedy decision on complaints filed not only by the residents of XXX but of the neighboring municipalities which redound to the convenience and comfort of the transacting public.
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> x x x x

Respondent judge ought to have known that the local government was not obligated to pay her additional allowance or RATA. She was already properly compensated for her services by the Court. Besides, it appears that the local government could not afford to grant her the usual RATA; in lieu thereof, the local executive agreed to provide free quarters to respondent judge at the local government's expense. Propriety demands that respondent judge should have refused the offer; she ought to have exhibited enough good sense to decline it especially since the provision of a residential quarters is not among her privileges as a judge. Neither should respondent judge expect the local government to "compensate" her for services rendered, particularly as regards the speedy disposition of complaints, since this is the very essence of, and expected from, her office. Moreover, the claim that living within the premises of the Halls of Justice provides more convenience, safety and security to respondent judge fails to sway. On the contrary, respondent judge's use of the courthouse as dwelling "brings the court into public contempt and disrepute" "in addition to exposing judicial records to danger of loss or damage." Besides, if we give weight to respondent judge's explanation, then all judges might as well reside within the premises of the Halls of Justice.

Respondent judge must know that there is always a price to pay for tainted offerings, however innocuous or harmless they may appear. And the price is almost always loss of integrity or at the very least, compromised independence. Needless to say, that is a stiff price to pay, especially by a member of the judiciary, whose basic, irreducible qualification, is unimpeachable integrity.

Finally, her being a nominee as Outstanding MCTC Judge will not in any manner erase or justify her infraction. On the contrary, she ought to have lived up to the standards of judicial excellence by strictly adhering to laws and rules, directives, and circulars of the Court. x x x

Respondent judge was found guilty of violating SC Administrative Circular No. 3-92 and was ordered to pay a fine of P11,000 with a stern warning that a repetition of the same or kindred offense shall be dealt with more severely. ***[A.M. No. MTJ-18-1917 (Formerly OCA I.P.I. No. 15-2812-MTJ), October 8, 2018]***

- **Gross ignorance of the law and procedure**

We agree with the OCA's finding that respondent judge exhibited gross ignorance of the law and procedure in issuing the Order dated May 5, 2016 as it violated the principle of immutability of judgment and the policy of non-interference over the judgments or processes of a co-equal court.

x x x x

Of course, there are exceptions to this rule, such as "the correction of clerical errors, or the making of so-called *nunc pro tunc* entries, which cause no prejudice to any party, and [the nullification of a] judgment [that] is void." None of the exceptions obtain in this case, however.

The March 19, 2015 Order terminating the rehabilitation proceedings became final and executory after respondent judge denied B's motion for reconsideration to reverse the same. It, thus, became imperative for respondent judge to respect his own final and executory decision in keeping with the basic principle of finality or immutability of judgments. "The doctrine of finality of judgment, which is grounded on fundamental considerations of public policy and sound practice, dictates that at the risk of occasional error, the judgments of the courts must become final and executory at some definite date set by law." To do otherwise, as what respondent judge did by issuing the May 5, 2016 Order, rendered him administratively liable for gross ignorance of the law.

Neither will respondent judge's explanation, that the motion to revive the proceedings was wrongfully granted for being based on the outdated 2000 Rules and 2008 Rules, merit an exoneration from administrative liability. Even if this Court were to consider such mistaken interpretation of the amendments to the Rules on Corporate Rehabilitation, his explanation in itself highlighted his gross ignorance of the law in failing to apply the latest law on the matter, *i.e.,* FRIA. Considering that RTC YYY City Branch ZZ is a commercial court, it all the more makes respondent judge's ignorance of the applicable law glaring. "This Court has ruled that when a judge displays an utter lack of familiarity with the rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law."

Even if this Court were to brush aside the impropriety of respondent judge's May 5, 2016 Order, his act of granting B's *ex-parte* motion for execution infringes on the time-honored principle that "the notice requirement in a motion is mandatory" because a "notice of motion is required where a party has a right to resist the relief sought by the motion and principles of natural justice demand that [a party's] right be not affected without an opportunity to be heard." What is striking was respondent judge's act of granting B's *ex-parte* motion despite being aware of C's previous writ of possession over the assailed property before RTC ZZZ City Branch DD; and of his nullifying the foreclosure and subsequent proceedings despite the pendency of a complaint for nullification of foreclosure proceedings before the RTC YYY City Branch EE. Not only was this a wanton disregard of C's right to due process but it also interfered with the orders and processes of a co-equal court.

Although involving the issuance of a temporary restraining order, our pronouncement in *Atty. Cabili v. Judge Balindong* explains the importance of maintaining a policy of non-interference over the judgments or orders of a co-equal court, to wit:

> The doctrine of judicial stability or non-interference in the regular orders or judgments of a co-equal court is an elementary principle in the administration of justice: no court can interfere by injunction with the judgments or orders **of another court of concurrent jurisdiction** having the power to grant the relief sought by the injunction. The rationale for the rule is founded on the concept of jurisdiction: a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, **to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment.**
>
> Thus, we have repeatedly held that a case where an execution order has been issued is considered as **still pending**, so that all the proceedings on the execution are still proceedings in the suit. A court which issued a writ of execution has the inherent power, for the advancement of justice, to correct errors of its ministerial officers and to control its own processes. To hold otherwise would be to divide the jurisdiction of the appropriate forum in the resolution of incidents arising in execution proceedings. Splitting of jurisdiction is obnoxious to the orderly administration of justice.
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> Jurisprudence shows that a violation of this rule warrants the imposition of administrative sanctions.

Respondent judge's administrative liability becomes more palpable as B's *Motion to Allow Petitioner to Avail of the Provisions of Rule 2 Section 73 of the Financial Rehabilitation Rules of Procedure* did not even pray for the nullification of the foreclosure proceedings or restoration of possession of the subject property.

The confluence of these infractions showed respondent judge's gross ignorance of the law, "which is classified as a serious charge, [and] punishable by a fine of more than P20,000 but not exceeding P40,000, and suspension from office for more than three but not exceeding

six months, without salary and other benefits, or dismissal from service." Given the fact that respondent judge compulsorily retired on July 28, 2016, and in the absence of a finding of bad faith, dishonesty, or some other ill motive, a fine of P21,000 would be appropriate under the circumstances to be deducted from his retirement benefits. ***[A.M. No. RTJ-18-2535 (Formerly OCA I.P.I. No. 16-4583-RTJ), October 8, 2018]***

- **Undue delay in rendering decisions and orders**

It has been "consistently held that failure to decide cases and other matters within the reglementary period constitutes gross inefficiency [which] warrants the imposition of administrative sanction against the erring magistrate."

The rules prescribing the time within which the judicial duty to decide and resolve cases are mandatory in nature. Section 15(1) of the 1987 Constitution states that cases or matters must be decided or resolved within three months for the lower courts. Under Canon 3, Rule 3.05 of the Code of Judicial Conduct, judges shall dispose of the court's business promptly and decide cases within the required periods. Also, under Canon 6, Section 5 of the New Code of Judicial Conduct for the Philippine Judiciary, judges shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly, and with reasonable promptness. It is axiomatic that "the honor and integrity of the judicial system is measured not only by the fairness and correctness of decisions rendered, but also by the efficiency with which disputes are resolved."

It goes without saying that this Court, "in its pursuit of speedy dispensation of justice, is not unmindful of circumstances that may delay the disposition of the cases assigned to judges. It remains sympathetic to seasonably filed requests for extensions of time to decide cases." Here, however, despite the availability of the remedy which consists in simply asking for an extension of time from the Court, respondent judge altogether passed up this opportunity. We thus find no reason to exonerate him. However, considering respondent judge's two decades of service in the Judiciary, and his uncontroverted manifestation that he helped acting presiding judge in the preparation of the draft decisions for the undecided cases, we deem the penalty of fine in the amount of P20,000 appropriate.

The Court found respondent judge guilty of undue delay in rendering decisions and orders, and imposed upon him a fine of P20,000 to be deducted from his retirement benefits. ***[A.M. No. 13-8-185-RTC, October 17, 2018]***

SHERIFFS

- **Simple neglect of duty**

A sheriff's duty to enforce the writ of execution is mandatory and purely ministerial. As an agent of the law whose primary duty is to execute the final orders and judgments of the court, a sheriff has the ministerial duty to enforce the writ of execution promptly and expeditiously to ensure that the implementation of the judgment is not unduly delayed. Thus, a sheriff should not wait for the litigants to follow-up the implementation of the writ before proceeding to enforce the writ of execution.

Respondent sheriff received the writs of execution on April 24, 2012, but he was only able to serve the writs of execution on D, the judgment obligor, on September 18, 2012. Despite service of the writs of execution on D, respondent sheriff still failed to enforce the writs of execution. Respondent sheriff merely relied on D's statement that he would personally settle the matter with complainant. When complainant filed the administrative complaint on May 6,

2014, or two years after respondent sheriff received the writs of execution, the said writs were still not fully enforced.

Under Section 9, Rule 39 of the Rules of Court, respondent sheriff should have demanded from D, the judgment obligor, the immediate payment of the full amount stated in the writs of execution and all the lawful fees. Respondent sheriff was remiss in his duty when he failed to compel D to immediately pay the amount of the judgment debt, and instead granted the latter's request to personally settle his debts with complainant which was clearly a tactic to delay the execution of the judgment. It is only when the judgment obligor cannot pay all or part of the judgment debt that the sheriff shall levy on the properties of the judgment obligor or garnish the debts due the judgment obligor and other credits.

Not only was respondent sheriff negligent in enforcing the writs of execution, he also failed to observe the requirement on the return of the writs of execution as provided under Section 14, Rule 39 of the Rules of Court:

> **SECTION 14.** ***Return of writ of execution.*** – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within 30 days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every 30 days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

Under this provision, a sheriff is mandated to make a report to the court within 30 days after his receipt of the writ of execution and every 30 days thereafter until the judgment is satisfied in full, or until its effectivity expires. The periodic reports are necessary to update the court on the status of the writ of execution and to enable the court to take the necessary steps to ensure the speedy execution of decisions.

Although respondent sheriff received the writs of execution on April 24, 2012, it was only after two years that he submitted a Sheriff's Report dated May 9, 2014, and only to comply with the court's order dated May 7, 2014, directing him to submit the report within five days. Although respondent sheriff explained why the writs remained unsatisfied, there was no explanation on his failure to make the mandated periodic reports and the delay in the submission of the Sheriff's Return. Respondent sheriff's failure to make the periodic reports on the status of the writ of execution renders him administratively liable.

Respondent sheriff's delay in enforcing the writs of execution and his failure to make the periodic reports on the status of the writs of execution constitute simple neglect of duty for which he was fined in the amount equivalent to his salary for one month, with a stern warning that a repetition of the same or similar offense will be dealt with more severely. ***[A.M. No. P-17-3627, September 5, 2018]***

COURT EMPLOYEES

- **Suspension is served by calendar days unless stated otherwise.**

In its Memorandum of July 17, 2018, the OCA held that respondent clerk's 10-day suspension should be construed as 10 calendar days and not 10 working days, *viz.*:

> The 10 days suspension to be served by respondent clerk shall be construed as 10 calendar days. It has been observed that in cases where the penalty given by the Court

is suspension, the reference is to calendar days. Note that even the Revised Rules on Administrative Cases in the Civil Service is silent on whether the number of days for preventive suspension and suspension as a penalty shall be for calendar days or working days. Article 13 of the Civil Code which has been superseded by Executive Order No. 292 only made mention of the definition when the law speaks of years, months, days or nights. Section 31 of Executive Order No. 292 on legal periods defines 'year' to be 12 calendar months; 'month' of 30 days, unless it refers to a specific calendar month in which case it shall be computed according to the number of days the specific month contains; 'day,' to a day of 24 hours; and 'night,' from sunset to sunrise. It is not explicitly provided whenever the law or order simply uses the word 'day' whether it shall mean 'calendar day' or 'working day.'

However, in the case of *The Board of Trustees of the Government Service Insurance System and Winston F. Garcia, in his capacity as GSIS President and General Manager v. Albert M. Velasco and Mario I. Molina,* 'calendar days' was applied in the counting of the 90 days preventive suspension imposed on respondents. The latter were placed under preventive suspension on May 23, 2002 and the same ended on August 21, 2002. The Court held that after serving the period of their preventive suspension and without the administrative case being finally resolved, respondent should have been reinstated.

By analogy, the above interpretation can be applied in the instant matter, especially so when the order of suspension against respondent clerk in the Resolution dated August 16, 2017 was silent in that regard.

Such construction is also observed in labor cases when the order of suspension of an employee does not specify whether it will be for a number of working or calendar days, in which case, suspension shall be served in calendar days which is favorable to the laborer. This is in keeping with the principle that 'all doubts in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations shall be resolved in favor of labor.'

x x x x

Respondent clerk's assertion that a suspension served by calendar days loses its punitive nature, is erroneous. It must be stressed that aside from temporary cessation of work, suspension also carries with it other accessory penalties. For one, suspension of one day or more is considered as a gap in the continuity of service. During the period of suspension, the employee is also not entitled to all monetary benefits including leave credits. Moreover, the penalty of suspension carries with it disqualification from promotion corresponding to the period of suspension. ***[A.M. No. P-17-3740 (Formerly A.M. No. 16-04-89-RTC), September 19, 2018]***