



Supreme Court of the Philippines Philippine Judicial Academy



PHILJA Fax/Electronic Alerts

Issue 10-09
October 2009

Judges: Unfit to discharge her functions as judge

In *People v. Bedia*, 83 Phil 909, 916 (1949) the Supreme Court emphasized that “the administration of justice is a lofty function and is no less sacred than a religious mission itself. Those who are called upon to render service in it must follow that norm of conduct compatible only with public faith and trust in their impartiality, sense of responsibility exercising the same devotion to duty and unction done by a priest in the performance of the most sacred ceremonies of a religious liturgy”

When a judge is appointed to his office the people are confident that he is mentally and morally fit to pass upon the merits of their cases.

Respondent judge failed to resist the temptations of power which led her to transgress the very law she swore to uphold. She failed to exercise that degree of care and temperance required of a judge in the correct and prompt administration of justice, more so in the exercise of her power of contempt which resulted in the detention of complainants.

It is settled that the power to declare a person in contempt is inherent in all courts to preserve order in judicial proceedings and to uphold the administration of justice. Judges, however, are enjoined to exercise such power judiciously and sparingly, with utmost restraint, and with the end in view of utilizing the same for correction and preservation of the dignity of the court and not in retaliation or vindication.

More, Respondent, a lady judge at that, lacks finesse in her choice of words. Remarks such as “Ano kaya kung mag hearing ako ng hubo’t hubad tapos naka robe lang, pwede kaya?”, “Hayaan mo, Farah, pag natikman ko na siya ipapasa ko sa iyo, ha ha ha,” and alam mo na ang dami intriga dito; ireport ba naman na nakatira ako dito, ano kaya masama dun? Alam ko staff ko rin nagsumbong eh, PUTANG INA NILA, PUTANG INA TALAGA NILA!” have no place in the judiciary.

Respondent judge was found unfit to discharge her functions as judge, hence, was dismissed from the service. (A.M. No. MTJ-06-1623, etc, September 18, 2009)

Judges: Gross ignorance of the law

Rule 71, Section 4 of the Rules of Court provides that an indirect contempt proceeding, which is not initiated motu proprio by the court shall be commenced by a verified petition that fully complies with the requirements for filing initiatory pleadings for civil actions, including the payment of docket fees.

Respondent judge was found guilty of gross ignorance of the law for taking cognizance of the petition for indirect contempt despite the non-payment of docket fees. He was fined P40,000 chargeable to his retirement benefits (A.M. No. RTJ-07-2089, September 8, 2009)

Judges: Unbecoming conduct

The act of a judge who is a married man of having dinner with another woman and entering a bedroom with her does not necessarily constitute immorality but certainly suggests an appearance of impropriety and unbecoming conduct.

The testimonies of complainant's witnesses were not sufficient to prove the charge of immorality against respondent judge. Complainant should not have refused to testify during the hearing. More than anyone else, it was she who had a direct interest in making sure that the evidence adduced met the necessary burden of proof considering that the allegations in her complaint involved charges that cannot be lightly taken. She should have been more zealous in prosecuting her complaint.

For failure of complainant to prove her charge of immorality, respondent judge was found guilty only of the lighter offense of unbecoming conduct, for which he was fined P10,000 to be deducted from his retirement benefits. **(A.M. No. RTJ-01-1650, September 29, 2009)**

Clerk of Court: Gross dishonesty and Grave misconduct

In *Office of the Court Administrator v. Galo, 373 Phil 483, 491 (1999)*, the Supreme Court pointed out that clerks of court as custodians of court funds and revenues, have the duty to immediately deposit the various funds received by them with the authorized government depository for they are not supposed to keep funds in their custody.

In this connection, Supreme Court Circulars No. 13-92 mandates that all fiduciary collections shall be deposited immediately by the clerk of court concerned upon receipt thereof with an authorized depository bank. SC Circular No. 5-93 designated the Land Bank of the Philippines as the authorized depository bank.

Respondent clerk of court's failure to remit her collections amounting to P256,530.25 and to report/collect fines totaling P50,050.00 constitutes gross neglect of duty, dishonesty, and grave misconduct. She has transgressed the trust reposed in her as cashier and disbursement officer of the court.

For gross dishonesty and grave misconduct, respondent clerk of court was dismissed from the service with forfeiture of retirement benefits. **(A.M. No. P-05-2046, September 17, 2009)**

Clerk of Court Ex Officio Sheriff: Grave misconduct and incompetence

Under Administrative Order No. 3 dated October 19, 1984, the procedure to be followed in extrajudicial foreclosure of mortgages follows:

1. All applications for extra-judicial foreclosure of mortgage under Act 3135, as amended by Act 4118, and Act 1508, as amended, shall be filed with the Executive Judge, through the Clerk of Court who is also the *Ex-Oficio* Sheriff;
2. Upon receipt of an application for extra-judicial foreclosure of mortgage, **it shall be the duty of the Office of the Sheriff** to:
 - a) receive and docket said application and to stamp the same with the corresponding file number and date of filing;
 - b) collect the filing fees therefor and issue the corresponding official receipt;

- c) examine, in case of real estate mortgage foreclosure, whether the applicant has complied with all the requirements before the public auction is conducted under its direction or under the direction of a notary public, pursuant to Sec. 4, of Act 3135, as amended;
 - d) sign and issue certificate of sale, subject to the approval of the executive Judge, or in his absence, the Vice-Executive Judge; and
 - e) turn over, after the certificate of sale has been issued to the highest bidder, the complete folder to the Records Section, Office of the Clerk of Court, while awaiting any redemption within a period of one (1) year from date of registration of the certificate of sale with the Register of Deeds concerned, after which the records shall be archived
3. The notices of auction sale in extra-judicial foreclosure for publication shall be published in a newspaper of general circulation pursuant to Section 1, Presidential Decree No. 1709, dated January 26, 1977, and non-compliance therewith shall constitute a violation of Section 6 thereof;
 4. The Executive Judge shall assign with the assistance of the Clerk of Court and *Ex-Oficio* Sheriff, the cases by raffle among the deputy sheriffs, under whose direction the auction sale shall be made. Ruffling shall be strictly enforced in order to avoid unequal distribution of cases and fraternization between the sheriff and the applicant-mortgage such as banking institutions, financing companies and others."

Respondent clerk of court ex officio Sheriff cancelled the auction sale without the knowledge of the Executive Judge and without notice to complainant. Worse, he refused to accept another petition filed by complainant for extra-judicial foreclosure of mortgage. Respondent failed to discharge his ministerial duties as Ex Officio sheriff.

More, Respondent refused to comment on the administrative case filed against him, a glaring proof of his recalcitrance and stubbornness to obey legitimate orders of the Supreme Court.

For all the foregoing, respondent clerk of court ex officio sheriff was found guilty of grave misconduct and incompetence. He was dismissed from the service with forfeiture of retirement benefits. (A.M. No. P-08-2553, August 28, 2009)

Philippine Judicial Academy

Chancellor

Adolfo S. Azcuna

Founding Chancellor Emeritus

Ameurфина A. Melencio Herrera

Head, Research, Publication and Linkages Office (RPLO)

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva

Atty. Orlando B. Cariño

Staff

Nennette G. Zaldivar

Rodrigo G. Javier

The *PHILJA Fax/Electronic Alerts* is issued monthly by the RPLO of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel. No. (02)552-9518; Telefax; (02)552-9621
E-mail address: research_philja@yahoo.com. For link to e-library: www.supremecourt.gov.ph.

If you have any Fax No. or E-mail address, please let us know so we could send the "Alerts" direct to you.